

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. – OA 641 OF 2022

JAYANTA MONDAL & OTHERS - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

04
02.08.2023

For the Applicants : Mr.Subhrojyoti Ghosh
Advocate

For the Respondent No. 3 : Mr.Manujendra Narayan Roy
and 4 Advocate

For the State Respondents : Ms.Ruma Sarkar
Mr.Sourav Debray
Mr.A.Bhattacharjee
(Departmental Representatives)

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels and the learned Departmental representatives, the case is taken up for consideration sitting singly.

The Tribunal in its order dated 10.12.2018 in OA-691 of 2010 directed the respondents to consider the representations of the applicants regarding their re-engagement, enhanced remuneration as daily rated workers (DRWs). The reasoned order after considering the matter in its totality found these applicants neither eligible for re-engagement nor for enhanced remuneration. It appears from the reasoned order that these applicants were engaged previously as DRWs for specific works at different times and paid a fixed monthly remuneration of Rs. 2,600/-. Since they were DRWs and not engaged against any sanctioned vacancies nor with the approval of the competent authority, they were not engaged any further.

Submission of Mr.Ghosh, learned counsel for the applicant is that these applicants have been engaged and working as DRW's for a long

time under the establishment of District Administration. Despite their representations and directions of the Tribunal, the respondents have not absorbed them in regular establishment nor increased their remuneration. Since they have not been engaged any more, Mr.Ghosh, prays for a direction to the respondents to re-engage them and pay them with enhanced remuneration.

In response to the claims of the applicants and submission of Mr.Ghosh, Mr.M.N.Roy, learned counsel for the State respondents submits that these applicants were earlier engaged as DRWs to perform certain labour-oriented jobs. Further, these engagements were neither contractual nor throughout the year. Therefore, following the extant rules, the question of absorbing them into permanent and regular establishment and paying them enhanced remuneration does not arise.

Disagreeing with Mr.Roy, Mr.Ghosh, draws the attention of the Tribunal to page 19 and 20 of this application. These pages appears to be a statement of daily rated / contractual labour engaged in the office of Sub-Divisional Officer, Egra, in which two applicants – Jayanta Mondal and Partha Sarathi Payra have been shown in the statement as casual, engaged since January, 2002 and having worked round the year including holidays. This statement appears to have been signed by the Sub-Division Officer, Egra on 01.06.2006.

After perusing these records and hearing the submissions, the Tribunal is of the view that, it is true that at one point of time, particularly, during 2002 to 2006, two of these applicants were engaged, as certified by the Sub-Divisional Officer. However, as per the reasoned order, these applicants were not engaged any further after 2006. It may also be correct that they were engaged once in a while as a seasonal

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worker during the years after 2006 till 2009 depending on the requirement of the respondent authority. But, from all these, it is very clear that, firstly they were neither engaged against any sanctioned post nor approval of the competent authorities obtained. The reasoned order has made it very clear that due to their nature of engagement, the prayer for absorption or for enhanced remuneration or for further engagement, has no merit. Attention has also been drawn by the State respondent to Notification No. 9008 F(P) dated 16.09.2011 which prescribes in detail a guideline relating to engagement of such workers under Government establishment. After perusal of the records, it is evidently clear that the prayer of these applicants for re-engagement / absorption into regular establishment and enhanced remuneration are not admissible. Therefore, this Tribunal is of the opinion that the prayer in this application has no merit and thus, disposed of without any orders.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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