

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – OA 730 of 2022.

ARINDAM JANA–Vs- THE STATE OF WEST BENGAL & ORS

Serial No. and
Date of order

4
22.6.2023

For the Applicant : Mr. M. Karim,
Advocate.
For the State respondents : Mr. G. Halder,
Advocate.

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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order dated 28.3.2022 passed by the Principal Secretary of the Department rejecting the application for regularisation of the applicant in the regular post.

Fact of this case is that the applicant joined the Civil Defence in February, 1996 in a voluntary and honorary basis in different capacities of Civil Defence organisation and received wages. Since 1996, the applicant was hoping and had prayed before the respondent authorities for absorption in any suitable post within the Civil Defence organisation. One such representation dated 28.12.2021 was furnished before the Secretary, Department of Disaster Management and Civil Defence. It also appears that this matter earlier was heard and a direction passed by the Tribunal in OA 439 of 2020, directing the respondent authority to consider and pass a reasoned order on his representation for absorption in a regular post. In terms of such direction, the Principal Secretary of the Department on 28.3.2022 passed a detailed reasoned order and the relevant operative part is as under :-

“Thus the applicant’s claim for regular job is not based on any legal

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provision and is therefore rejected.”

Aggrieved by such rejection by the respondent, Mr. M. Karim, learned counsel for the applicant submits that the respondent had ignored the fact that the applicant had been serving in various capacities within the Civil Defence Community, albeit voluntarily and honourably. His sincerity and dedication in serving the community through the Civil Defence organisation has been completely forgotten and ignored.

In response, Mr. G. Halder, learned counsel for the State respondents submits that the applicant was never appointed in any regular post or against any sanctioned post and he does not qualify as per relevant rules, to be absorbed in any regular capacity. Therefore, the respondent had considered the representation of the applicant and after detailed reasoning, had to regret, which was passed on 28.3.2022 and communicated to the applicant also.

In consideration Mr. Karim submits that satisfied with the dedication of the applicant's service, the Director had also recommended the case of the applicant for appointment "in any suitable Group B,C or D post, if possible". However, the department did not consider such recommendation.

After hearing the submissions and considering the facts and circumstances of the case, the Tribunal does not find any merit and substantive ground to set aside the impugned order. The applicant no doubt had served the Community through Civil Defence Organisation, but as a 'Volunteer' and such voluntary service does not make him eligible to be absorbed in any regular establishment. Although his Director had recommended his case but such recommendations are rather expressions of good work done by the applicant and are not obligatory on part of the respondent Department to accept.

The application is disposed of without any orders.

Skg.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).