

**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 787 of 2019.

ALOKE KUMAR GHOSH & ORS - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

19  
23.8.2023

For the Applicants : Mr. I. Mitra,  
Mr. S. Chatterjee,  
Ld. Advocates.

For the State respondents : Mr. G.P. Banerjee,  
Ld. 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 23<sup>rd</sup> 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, the case is taken up for consideration sitting singly.

The applicants in this application have prayed for a direction to the respondent authorities to regularise and/or absorb their services under the regular establishment. The applicants are Supervisors of Self Help Group and Self Employment working in different blocks in different districts. Mr. I. Mitra, learned counsel appearing for the applicants and assisted by his colleagues submit that these Supervisors have been working for the past more than ten years with full satisfaction of their employers. Due to their dedication and seniority in work, their services have been extended every time without any hurdle or hindrance. Now, since they have completed more than ten years of service as Supervisors, submission is that a direction may be given to the respondent authorities to absorb them in regular establishment. Further, as per the order of the Self Help Group and Self Employment Department No. 100-SH/2C-01/17 dated 25<sup>th</sup> January, 2018, and after approval of the Finance Department, enhanced remuneration under Notification 1107-F(P) dated 25.2.2016 has been allowed. In terms of such Notification, now the applicants, who have completed more than ten years of service are receiving enhanced remuneration.

**ORDER SHEET**

Form No.

ALOKE KUMAR GHOSH & ORS.

Case No. OA 787 of 2019.

**-Vs-**

THE STATE OF WEST BENGAL & ORS.

The order also makes it clear that their increments will also be due on a particular date.

In view of the fact that the applicants have been working continuously as Supervisors for more than ten years and also for the fact that the enhanced remuneration under Notification 1107-F(P) dated 25.02.2016 have been allowed to the applicants, they are thus entitled to be absorbed under regular establishment.

Appearing on behalf of the respondents, Mr. G.P. Banerjee, learned counsel refers to para 6 of the reply filed earlier by the State. The relevant part is as under :-

*“...That it is pertinent to mention herein that the SGH&SE supervisors have been appointed on contractual basis and thus the question of their regularization doesn't arise, which means that no breach of any article has occurred, It is further submitted that owing to their appointment on contractual basis the said supervisors cannot be absorbed in a regular establishment...”*

Further, Mr. Banerjee submits that this Department is not the competent authority to absorb these applicants into permanent establishment. Mr. Banerjee also submits that as per Memo 118 dated 8<sup>th</sup> February, 2008 appearing at page 56 of this application, a total of 406 posts of Supervisors were created for engagement on contractual basis and on a consolidated pay. From this, it is evident that these posts were created solely on contractual basis. Therefore, there is no room or scope to absorb these contractual employees under permanent establishment. Such policy of engaging them on contractual basis is also supported by the engagement letters issued to them. For instance, the appointment letters clearly makes it clear to the candidates that his/her engagement is “Purely contractual” and it does not “bestow upon the incumbent concerned any claim for regular appointment under the Government of West Bengal or any other Department under the Government of West Bengal .” At the time when such engagement was offered, the applicants were well aware of the fact, as stipulated in their engagement orders, that these posts they are about to join are purely on contractual basis and no claim for regularisation or absorption will be

**ORDER SHEET**

Form No.

ALOKE KUMAR GHOSH & ORS.

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Case No. OA 787 of 2019.

**-Vs-**  
THE STATE OF WEST BENGAL & ORS.

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entertained.

Mr. S. Chatterjee, learned counsel for the applicants submits that their prayer is not regarding regularisation. The prayer is for absorption. Mr. Chatterjee prays for liberty to file copies of all relevant documents on the next date.

Let the matter appear under the heading "Hearing" on 16<sup>th</sup> January, 2024.

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

Skg.