

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

Case No. – OA 842 of 2016

Sudip Ghosh -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Mitra,
Learned Advocate.
For the State Respondent : Mr. S.N. Ray,
Learned Advocate.

19
25.04.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The instant case has been filed by the applicant praying for implementation of the earlier order dated 21.02.2014 passed in OA-1297 of 2012 within a stipulated period of time. As per the applicant, he had approached this Tribunal earlier in OA-1297 of 2012 against the rejection orders dated 23.05.2012 (Annexure-A/9) and 18.06.2012 (Annexure-A/10). As per the applicant, he had communicated the said order vide letter dated 03.03.2014, which was received by the respondent on the same date (Annexure-A/12). However, till date neither the said order has been implemented nor they have preferred any writ petition against the said order. Therefore, the order dated 21.02.2014 has attained finality. Since he was waiting for the implementation of the order for some time, therefore, he could not file contempt petition in compliance of the said order within stipulated period of one year. Therefore, he has filed the instant application asking for implementation of the said order.

However, it has been submitted by the counsel for the applicant that as the Tribunal in earlier occasion also dealt with the case of the applicant in details after considering the case of Uma Devi also, therefore, nothing has been left to adjudicate further. Thus, he has prayed for appropriate order in this regard.

On query, the counsel for the respondent has submitted that as per

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instruction of his client, they could not find out any writ petition filed against the order dated 21.02.2014 passed in OA-1297 of 2012. Even no reply has been filed though the instant application has been filed in the year 2016.

Heard both the parties and perused the records. It is noted that the applicant had come before this Tribunal earlier against the rejection orders dated 23.05.2012 and 18.06.2012 by which his prayer of regularisation was rejected basically on the ground of judgment passed by the Hon'ble Apex Court in the case of State of Karnataka v. Uma Devi and Others as well as being violation of the provision of G.O. No. 247-SW dated 02.06.2008. It is noted that the said two aspects were considered by the Tribunal in earlier occasion in detail and after being satisfied with the submission of the applicant, this Tribunal had passed the following order :

"If we examine of the case of the petitioner we find that there was clear sanctioned post against which he was sponsored by the employment exchange and thereafter he anticipated in the due selection process and judging the acid test of Uma Devi case, we can firmly record that the case of the petitioner was neither illegal appointment nor irregular appointment and even not back door appointment but it satisfied all the parameters of Uma Devi case and in this regard the view of Finance Department reproduced by the Special Secretary appears to be totally erroneous, vindictive and highly dissatisfactory. To sum up, we regret that the prayer of regularisation was illegally turned down and in view of the Govt. notification dtd. 2nd June, 2008 followed by sponsoring of the name of the petitioner, followed by his participation in due selection process, the petitioner is very much entitled to have a regular appointment against the post for which he was selected from the date he joined the post. We discard the letter of agreement and also the order of Special Secretary and D.M., Howrah denying the claim of regularisation. We direct the D.M., Howrah being the appointing authority to issue appropriate order within four weeks from communication of this order and to accord all benefits to the petitioner from the date of his joining within next three months without fail. The application is allowed to the full.

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**The order of the Special Secretary and also the Addl. D.M.,
Howrah hereby stands quashed."**

From the above, it is clear that the Tribunal after quashing the orders dated 23.05.2012 and 18.06.2012 directed the District Magistrate, Howrah to issue appropriate regularisation order within a period of four (4) weeks, which is still pending before them without any implementation.

In view of the above, as no writ petition has been preferred against the said order, therefore, the order dated 21.02.2014 has attained finality and nothing has been left to adjudicate the same issue again.

Accordingly, the District Magistrate, Howrah, the Respondent No. 3 is directed to implement the order dated 21.02.2014 passed in OA-1297 of 2012 within a period of eight (8) weeks from the date of receipt of the order.

Accordingly, the OA is disposed of with no order as to costs.

**URMITA DATTA (SEN)
MEMBER (J)**

CSM/SS