

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman.

Case No. –OA-97 of 2021

Banku Pal and Others. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order : For the Applicants : Mr. G. P. Banerjee,
Mr. S. C. Atha,
Advocates.

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24.3.2021

For the State Respondents : Mr. M. N. Roy,
Advocate.

The matter is taken up by the single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 issued in exercise of the powers conferred under sub section (6) of section 5 of the Administrative Tribunals Act, 1985.

As prayed for by Mr. G. P. Banerjee, learned advocate for the applicants, leave granted to amend the cause title with regard to respondent no. 2 (1).

Banku Pal, Dilip Kumar Roy Chowdhury, Jogneswar Das and Naren Roy, the applicants have prayed for certain reliefs, the relevant portion of which is as under :-

“a. To admit this application.

b. To pass an order by directing the respondent authorities to implement the judgement and order passed by the Hon'ble Division Bench of Calcutta High Court in WPST No. 120 of 2004 by directing the applicants' service as regular employee will be counted from 1996 for the notional purpose of qualifying service in order to obtain their retirement dues. Pension, gratuity and other benefits shall be paid to them in accordance with law taking into account their temporary status, which shall be deemed to have been conferred on them from 21.04.1989.

c. To pass an order by directing the respondent authorities to compute the applicants service as regular employee from 1996 for the notional purpose of qualifying service in order to obtain their retirement dues and to release all other consequential benefits relating to their service career without any further delay.

d. To pass an order by directing the respondent authorities so that the applicants' pension, gratuity and other benefits shall be paid to in accordance with law taking into their temporary status which shall be deemed to have been conferred on them from 21.04.1989."

It appears the case has a chequered history. The applicants had served Public Health Engineering Directorate, Government of West Bengal in various capacities as Master Roll drivers, Master Roll helpers etc. in the different stations of the directorate in 1979. It appears that the Government of West Bengal by memo dated 25th June, 1979 issued by the Finance Department declared that all posts created on temporary basis and continuing for more than three years should be converted into permanent posts. By another memo dated 3rd August, 1979, the State authority decided that casual and other categories of workers who have been engaged in perennial type of work for more than three years may be absorbed in regular establishment on temporary basis in existing vacancies and if suitable vacancies were not available, steps might be taken to create requisite number of posts for the purpose of absorption in consultation with the Finance Department. Since in spite of assurances no steps were taken for absorption, the applicants filed a writ petition, being Civil Order No. 14,845(w) of 1988, which was disposed of by the learned Single Judge by passing an order on 21st April, 1989, the relevant portion of which is an under :-

"However, as a matter of principle it can be said that persons who

have already rendered service to the Government should have a preferential claim to any stranger.

In the circumstances, this application succeeds. The respondents are directed to first absorb, against any available vacancy, the petitioners in strict order of seniority before recruiting any other person from the open market. The respondents are also directed to confer temporary status on such casual workers and the respondents are further directed to take necessary steps to create requisite number of posts for the purpose of absorption of the petitioners in consultation with the Finance Department.”

Thereafter, as the grievances of the applicants were not considered, the applicants filed an application being OA-1384 of 2002 which was rejected by an order dated 30th July, 2003. Aggrieved the applicants filed a writ petition, being W.P.S.T. No. 120 of 2004 which was disposed of by an order on 16th January, 2013, the relevant portion of which is as under :-

“In the result, we direct that the petitioners’ service as regular employees will be counted from 1996 for the notional purpose of qualifying service in order to obtain their retirement dues. Pension, gratuity and other benefits shall be paid to them in accordance with law, taking into account their temporary status, which shall be deemed to have been conferred on them from 21st April, 1989.

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

Thereafter, the Chief Engineer, Headquarters, Public Health Engineering Directorate, -the respondent no. 4, by memo dated 21st June, 2013, addressed to the Joint Secretary, Public Health Engineering Department, stated that *“the petitioners have legitimately demanded*

their temporary status w.e.f. 21.4.1989 and the Hon'ble Division Bench of the High Court at Calcutta had allowed their prayer.” Thereafter, as the applicants found that their representations were not considered, a letter dated 6th June, 2017 demanding justice was furnished before the authorities. Subsequently the Superintending Engineer, Mechanical Circle-II, PHE Dte., Government of West Bengal, by memo dated 13th February, 2020, addressed to the Chief Engineer, Headquarters, P. H. Engineering Dte. - the respondent no. 5 had forwarded the application of one of the applicants Banku Pal for consideration before the Chief Engineer, Headquarters, P. H. Engineering Dte. - the respondent no. 5.

Mr. Banerjee submits that though the applicants during the pendency of the issue have superannuated, however, the directions contained in the judgment dated 16th January, 2013 in W.P.S.T. No. 120 of 2004 passed by the High Court remains unimplemented. Prayer is direction may be issued upon the respondents to implement the directions contained in the said judgment so that their pensionary benefits can be revised.

Mr. M. N. Roy, learned advocate for the State respondents, in his usual fairness, submits since it appears that the directions passed in the judgment by the High Court are yet to be implemented, if directed, the respondent authorities will carry out the same at the earliest.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, the original application is disposed of by directing the Additional Chief Secretary, Public Health Engineering Department, Government of West Bengal, - the respondent no. 2 (1), to dispose of the matter with regard to the applicants and to take steps for implementation of the directions contained in the

ORDER SHEET

Form No.

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judgment dated 16th January, 2013 in W.P.S.T. No. 120 of 2004, by passing a reasoned order to be communicated to the parties within 15 weeks from the date of presentation a copy of this order downloaded from the internet / website after giving an opportunity of hearing to Banku Pal, Dilip Kumar Roy Chowdhury, Jogneswar Das and Naren Roy, the applicants, after verifying the records and shall also take follow up steps accordingly.

(SOUMITRA PAL)
CHAIRMAN

S.M.