

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

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

&amp; The Hon'ble P. Ramesh Kumar, Member (A)

Case No OA - 1422 of 2014**Biswanath Gope –Vs- The State of West Bengal & Others.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;"><u>28</u> 06.01.2020</p>	<p><i>For the Applicant : Mr. K. Ghosal, Advocate.</i></p> <p><i>For the Respondents: Mr. A. De, (Departmental Representative) Land &amp; Land Reforms Department</i></p> <p><i>The instant application has been filed praying for regularisation of the service of the applicant. As per the applicant, he was engaged as Daily Rated Worker since 1998 and had worked under various departments. In the year 2011, he made a representation before the authority for consideration of his case for regularisation. However, no step has been taken by the respondent. Being aggrieved with, he has been filed the instant application.</i></p> <p><i>The respondents have filed their reply wherein they have stated that the applicant was engaged as daily-rated labour during the election period intermittently which is not a perennial nature of job. He was never engaged continuously since 1998 as claimed by the applicant. Further as per the Hon'ble Apex Court's judgement passed in the Secretary, State of Karnataka -vs- Uma Devi "reported in (2006) 4 SCC 1", a person who was never engaged by a proper selection and did not work</i></p>	

**ORDER SHEET****Biswanath Gope**

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA - 1422 of 2014 .....

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p><i>continuously for at least ten years before passing of this order, he is not entitled for any regularisation.</i></p> <p><i>The counsel for the applicant has further referred one judgement passed by the Hon'ble High Court dated 07.09.2005 passed in WPST No. 704 of 2004 and has prayed for extension of benefit of that judgement. He has also referred Memorandum dated 20.05.2013 and has submitted that he may be regularised on the basis of afore-mentioned circulars.</i></p> <p><i>Departmental representative of the respondent has further submitted that the circulars and judgement referred by the applicant in rejoinder has no relevancy with regard to regularisation. Therefore, the applicant has no right to claim regularisation under those circulars. Therefore, they have prayed for dismissal of the circulars and judgement.</i></p> <p><i>We have heard both the parties and perused the records. From the perusal of the document enclosed by the applicant, it is noted that the applicant was engaged intermittently during the election period for certain duration for one month or more but was never engaged continuously since 1998. The Hon'ble High Court in</i></p>	

**ORDER SHEET**

Biswanath Gope

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. OA - 1422 of 2014 .....

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
	<p><i>order dated 07.09.2005 has passed the following order:</i></p> <p><i>“Heard the learned Counsel for the parties.</i></p> <p><i>Pursuant to our previous order dated 21.7.2005 an affidavit has been affirmed by one Mukul Kanti Sarkar, the District Magistrate and Collector of Purulia. We have perused the material on record.....</i></p> <p><i>.....</i></p> <p><i>On recording the aforesaid assurance of the learned Advocate General we dispose of the writ petition. The order passed by the learned Tribunal is accordingly modified. “</i></p> <p><i>From the perusal of the afore-mentioned judgement, it is noted that the Hon'ble High Court has clearly opined that there is no scope for regularisation of the petitioner of the said case. However, on the basis of submission made by the Learned Advocate appearing for the State that the petitioner of the said case may be engaged for some time as per the policy of the Government and in future if any subsequent policy comes. As the applicant was not a party in the said application and no such assurance or submission made by the respondent in the instant case therefore, there is no question of extension of benefit of judgement dated</i></p>	

**ORDER SHEET****Biswanath Gope**

Form No. ....

**Vs.****The State of West Bengal & Ors.**Case No. **OA - 1422 of 2014** .....

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
A.K.P.	<p><i>07.09.2005 as the Hon'ble High Court never directed to the State government for continuation of engagement or regularisation thereto. Further in the instant case, though the applicant has prayed for regularisation but he was engaged for some times intermittently and thereafter, disengaged for a long till 2014. Therefore, there is no scope of extension of the said order as prayed for as the applicant has prayed for regularisation. Further, the Notification dated 02.05.2013 and 04.05.2015 has no relevancy as both the circulars are related with the continuation of service of casual / daily rated / contractual workers who had worked more than ten years or less than ten years but no proposal for regularisation. Therefore, in our considered opinion, the circulars are not also applicable in the instant case as the applicant has only prayed for regularisation of his service. Therefore, we do not find any reason to entertain the O.A. Accordingly, the O.A. is dismissed being devoid of merit, even after Uma Devi, no scope for continuation of service.</i></p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER (A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER (J)</b></p>	