

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das**

Case No –

Vs

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
10 29.08.2019	<p><u>OA-144 of 2018</u> : Jnan Prokash Biswas & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p><u>OA-145 of 2018</u> : Partha Pratim Banerjee & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p><u>OA-146 of 2018</u> : Sagar Debnath & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. M.N. Roy, Learned Advocate.</p> <p><u>OA-147 of 2018</u> : Ashok Kumar Ghoshal & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p>	

ORDER SHEET

Form No.

Vs.

Case No.

<p>For the Respondents : Mr. M.N. Roy, Learned Advocate.</p> <p><u>OA-148 of 2018</u> : Bijoy Kumar Roy & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S.N. Ray, Learned Advocate.</p> <p><u>OA-149 of 2018</u> : Prafulla Roy & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S.N. Ray, Learned Advocate.</p> <p><u>OA-150 of 2018</u> : Sudhir Chandra Barman & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. M.N. Roy, Learned Advocate.</p> <p><u>OA-151 of 2018</u> : Pran Kumar Narjinary & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. M.N. Roy, Learned Advocate.</p>	
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ORDER SHEET

Form No.

Vs.

Case No.

<p><u>OA-152 of 2018</u> : Surja Kanta Mandal & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S. Ghosh, Learned Advocate.</p> <p><u>OA-153 of 2018</u> : Mrinal Kanti Goswami & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. M.N. Roy, Mr. S. Ghosh, Learned Advocates.</p> <p><u>OA-176 of 2018</u> : Md. Hafizur Rahaman & Ors. Vs The State of West Bengal & Ors.</p> <p>For the Applicants : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. S.N. Ray, Learned Advocate.</p> <p><u>OA-287 of 2018</u> : Nemai Kundu Vs The State of West Bengal & Ors.</p> <p>For the Applicant : Mr. S. Sanyal, Mr. Moniruzzaman, Mrs. S. Agarwal, Learned Advocates.</p> <p>For the Respondents : Mr. M.N. Roy, Learned Advocate.</p>	
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ORDER SHEET

Form No.

Vs.

Case No.

The applicants of all original applications claim to have been engaged as Security Personnel in various establishments under Directorate of Textiles (Sericulture), West Bengal on different dates during the period from 2009 to 2017. All the applicants are aggrieved by issuance of letter dated December 26, 2017 by the Commissioner of Textiles and Sericulture, West Bengal by which direction is issued for discontinuation of engagement of Security Personnel at the prevailing wage rate w.e.f. March 31, 2018 in order to cut down the expenditure on this account from the next financial year i.e. April 1, 2018 onwards. Since all the applicants have common grievance against the letter dated December 26, 2017 issued by the Commissioner of Textiles and Sericulture, West Bengal, we are inclined to take up all the original applications for hearing analogously and to dispose of all the original applications by this common order.

The applicants have prayed for enhancement of their remuneration as recommended by Director General, Resettlement, New Delhi for skilled workers till the date of superannuation at the age of 60 years and also prayed for restraining the state respondents from giving effect to the letter dated December 26, 2017 issued by the Commissioner of Textiles and Sericulture, West Bengal (Annexure-G to the original application).

There is no dispute that the applicants were engaged as Security Personnel in various establishments under Directorate

ORDER SHEET

Form No.

Vs.

Case No.

of Textiles (Sericulture), Government of West Bengal on different dates during the period from 2009 to 2017. The applicants were engaged in connection with the scheme namely "Strengthening of surveillance system at Government establishment under special scheme 2010-11" for a period of one year or till the date of termination of engagement, whichever is earlier, on the basis of terms and conditions annexed to the letter of engagement. The contention of the applicants is that their engagement initially for a period of one year was extended from time to time till March 31, 2018, though all the documents of renewal of engagement of all the applicants have not been placed on record. By issuing letter dated December 26, 2017, the respondent no. 2, Commissioner of Textiles and Sericulture, West Bengal has communicated to all his subordinate officers in the Directorate of Textiles (Sericulture), not to engage the Security Personnel from Zila Sainak Board in different establishments of the Directorate of Textiles (Sericulture), after March 31, 2018 at the prevailing wage rate in order to cut down the expenditure on this account to a considerable extent from the next financial year i.e. April 1, 2018 onwards. It is specifically communicated in the said letter dated December 26, 2017 that the engagement of the Security Personnel at the prevailing wage rate would come to an end on March 31, 2018. The grievance of the applicants is that their engagement as Security Personnel at the prevailing wage rate will be discontinued after March 31, 2018 and as such they have

ORDER SHEET

Form No.

Vs.

Case No.

prayed for not giving any effect to the said letter dated December 26, 2017 (Annexure-G to the original application).

Mr. Moniruzzaman, Learned Counsel for the applicants, contends that the applicants had performed duty by putting their signature in the attendance register after March 31, 2018 on expectation of renewal of engagement and thereby receiving remuneration from the State Exchequer. He further submits that remuneration of an employee under the State is never reduced and as such the applicants have had expectation of getting remuneration by performance of duty after March 31, 2018.

Mr. S.N. Ray, Learned Counsel representing for the state respondents in some of the applications and Mr. S. Ghosh, Learned Counsel representing the state respondents in some other applications, contend that the Security Personnel have been engaged on contractual basis on the basis of specific terms and conditions for a period of only one year which was renewed subsequently from time to time only for a period of one year or till the date of termination of the engagement, which is earlier. The further submission on behalf of the state respondents is that no letter of engagement was issued in favour of any of the applicants after March 31, 2018 and as such they are not authorised to perform any duty by putting their signature in the attendance register. The specific submission of Mr. Ray is that the State has no liability to pay remuneration to the

ORDER SHEET

Form No.

Vs.

Case No.

applicants, even if they have performed any duty in an unauthorised manner without being engaged as Security Personnel after March 31, 2018.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the State respondents have taken the policy of reduction of expenditure on account of engagement of Security Personnel at the prevailing wage rate applicable for engagement of he applicants through Zilla Sainik Board in different establishments of the Directorate of Textiles (Sericulture) and as such letter dated December 26, 2017 was issued by the respondent No. 2, Commissioner of Textiles and Sericulture for cessation of engagement of Security Personnel at the prevailing wage rate after March 31, 2018. The applicants being engaged on purely contractual basis as Security Personnel for a period of one year which was renewed from time to time till March 31, 2018 have no right to continue as such Security Personnel in the absence of renewal of engagement by the appropriate authority after March 31, 2018. A contractual employee cannot have the reasonable expectation of continuation in employment for the purpose of getting remuneration when the State has taken a policy for reduction of expenditure on account of engagement of Security Personnel in different establishments of Directorate of Textiles (Sericulture). However, the Welfare State cannot be permitted to engage Security Personnel in different

ORDER SHEET

Form No.

Vs.

Case No.

establishments of Directorate of Textiles (Sericulture) on the same terms and conditions in which the applicants were engaged from other agencies by depriving the applicants of the opportunity to be engaged as Security Personnel after March 31, 2018. However, the state respondents have the discretion to discontinue the contractual employment of the applicants as security personnel in order to cut down the expenditure on account of engagement of security personnel after March 31, 2018.

The applicants who performed duty by putting signature in the attendance register after March 31, 2018 without being engaged as Security Personnel for performance of such duty are not entitled to get any remuneration for unauthorised performance of duty by them. However, the applicants who performed duty as Security Personnel till March 31, 2018 must be paid their remuneration, if not already paid to them.

In view of our above findings, we would like to hold that the state respondents should not engage Security Personnel in different establishments of Directorate of Textiles (Sericulture) on the same terms and conditions at which the applicants were engaged till March 31, 2018. If the state respondents initiate any process for engagement of Security Personnel in different establishments under Directorate of Textiles (Sericulture), the applicants also should be given the opportunity to participate in

ORDER SHEET

Form No.

Vs.

Case No.

the process for engagement of security personnel, subject to fulfilment of eligibility criteria, along with other eligible candidates in future. In view of our above observations, respondent no. 1, Principal Secretary to the Government of West Bengal, Department of Agriculture and the respondent no. 2, Commissioner of Textiles and Sericulture, Government of West Bengal are restrained from engaging Security Personnel in different establishments of Directorate of Textiles (Sericulture), Government of West Bengal on the same terms and conditions by which the applicants were engaged from any other agency or source without considering the case of the present applicants for such engagement as Security Personnel.

With the above directions, all the original applications stand **disposed of**.

Let a plain copy of this order be supplied to both the parties.

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

Rajib