

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

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

Case No. **OA – 232 of 2016**

*Diptish Chandra Tarafder*

Versus

*The State of West Bengal & Others. .*

Serial No. and  
date of order

Order of the Tribunal  
with signature

Office action with date  
and dated signature of  
parties when necessary.

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09  
02/08/2018

**For the Applicant** : Mr. B. Chakraborty,  
Mrs. S. Agarwal,  
Learned Advocates.

**For the State Respondents :** Mr. S. Ghosh,  
Learned Advocate.

*The applicant has prayed for direction upon the respondents to issue engagement letter in favour of the applicant for working as part-time Workshop Instructor in Jnan Chandra Ghosh Polytechnic with effect from July 1, 2015 and for setting aside order dated August 25, 2015 issued by the Joint Secretary to the Government of West Bengal, Department of Technical Education and Training, Polytechnic Branch and order dated August 31, 2015 issued by the Principal of Jnan Chandra Ghosh Polytechnic.*

*The applicant claims to be appointed as part-time Workshop Instructor in Jnan Chandra Ghosh Polytechnic with effect from January 3, 2015 to June 30, 2015 for the Academic Session 2014-15 on the basis of remuneration vide G.O. No. – 557-TET(Poly)/4E-2/2008(Pt-II) dated September 2, 2010. The contention of the applicant is that his engagement as part-time Workshop Instructor is discontinued with effect from the month July, 2015 onwards on the basis of letter dated August 31, 2015 issued by the Principal of Jnan Chandra Ghosh Polytechnic. The specific contention of the applicant is that the applicant continued in discharging his duty as part-time Workshop Instructor after expiry of June 30, 2015 on the*

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	<p><i>basis of verbal assurance that his service as part-time Workshop Instructor will continue in the said College. The applicant has placed on record copy of the attendance Register of the teachers of the said Polytechnic to establish that the applicant attended the College as part-time Workshop Instructor during the month of July, 2015 and August, 2015. The grievance of the applicant is that his service is discontinued in a malafide way by casting aspersion on him on the basis of a fact finding enquiry report submitted by the Principal of North Calcutta Polytechnic on instruction of Director, Technical Education and Training, Government of West Bengal.</i></p> <p><i>Mr. Biswanath Chakraborty, Learned Counsel for the applicant contends that the service of the applicant has been discontinued by casting aspersion on him without giving the applicant an opportunity of hearing. He further submits that the applicant has been discriminated by discontinuance of his service in the Polytechnic, while, other part-time Workshop Instructors have been working in the said Polytechnic and thereby, the respondents have violated the principle guaranteed under Article 14 of the Constitution of India. Mr. Chakraborty, Learned Counsel has relied on the case of “Ratnesh Kumar Choudhary V. Indira Gandhi Institute of Medical Sciences, Patna” reported in (2015) 15 SCC 151 and the case of “Lutfar Rahaman V. The Director of School Education, Government of West Bengal” report in (2014)3CAL LT 615 (HC) in support of his above</i></p>	

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	<p><i>contention.</i></p> <p><i>Mr. Sankha Ghosh, Learned Counsel representing the state respondents has relied on reply submitted by the state respondents and submitted that the applicant has no right to continue as part-time Workshop Instructor as the terms of his appointment ended on June 30, 2015. He further submits that further continuance of service of the applicant in the Polytechnic was detrimental to academic environment of Jnan Chandra Ghosh Polytechnic as reflected from the report submitted by the Principal of North Calcutta Polytechnic after conducting enquiry.</i></p> <p><i>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant was appointed as part-time Workshop Instructor for the period from January 3, 2015 to June 30, 2015 by the Principal of Jnan Chandra Ghosh Polytechnic by issuing one letter dated January 6, 2015 (Annexing P1 to the original application). There is nothing on record to indicate that the service of the applicant as part-time Workshop Instructor continued after expiry of June 30, 2015, though the applicant attended the Polytechnic by putting his signature in the Attendance Register during the month of July 2015 and August 2015. The Director of Technical Education and Training, Government of West Bengal issued one order on June 15, 2015 for constitution of one member Enquiry Committee headed by the Principal of North Calcutta Polytechnic for the purpose of conducting enquiry</i></p>	

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	<p><i>against the allegations labelled against the applicant from various quarters. The Principal, North Calcutta Polytechnic conducted the enquiry and submitted the report on June 24, 2015, wherefrom it appears that the continuance of service of the applicant as part-time Workshop Instructor in Jnan Chandra Ghosh Polytechnic will hamper healthy academic and administrative atmosphere of the College, as the applicant was not taking the classes and not making him available in conducting Examination. The Principal of North Calcutta Polytechnic held detailed discussion with the teachers and Principal of Jnan Chandra Ghosh Polytechnic, the administrative staff of the said College and the Secretary of Academic Council of Jnan Chandra Ghosh Polytechnic. The said Principal of North Calcutta Polytechnic also gave the present applicant an opportunity of hearing during enquiry as reflected from the report submitted by him. On consideration of the said report, the Joint Secretary to the Government of West Bengal, Department of Technical Education and Training, Polytechnic Branch issued one letter to the Principal of Jnan Chandra Ghosh Polytechnic on August 25, 2015 for discontinuation of engagement of the applicant as part-time Workshop Instructor of the said College. Ultimately, on August 31, 2015 the Principal of Jnan Chandra Ghosh Polytechnic issued the letter in favour of the applicant for discontinuance of his service as part-time Workshop instructor of the College with effect from</i></p>	

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	<p><i>July 2015.</i></p> <p><i>The question which calls for determination, is whether discontinuance of service of the applicant as part-time Workshop Instructor of Jnan Chandra Ghosh Polytechnic is justified under the law. It is relevant to take into consideration two decisions cited on behalf of the applicant. In “Ratnesh Kumar Choudhary V. Indira Gandhi Institute of Medical Sciences, Patna” (Supra), the Hon’ble Supreme Court of India dealt with termination of service of one Chest Therapist who was appointed in a sanctioned post on probation by following the procedure of selection applicable to the said post. In the instant case, the applicant was engaged as part-time Workshop Instructor for a specific period of time without following any selection procedure and obviously not against the sanctioned post. So the facts of the present case are clearly distinguishable from the facts of “Ratnesh Kumar Choudhary V. Indira Gandhi Institute of Medical Sciences, Patna” (Supra) and as such, the ratio of the said reported case has no manner of application in the facts of the present case.</i></p> <p><i>In “Lutfar Rahaman V. The Director of School Education, Government of West Bengal” (Supra) the Division Bench of the Hon’ble High Court of Calcutta dealt with the issue of maintainability of the second Writ Application for implementation of the order passed in connection with the first Writ Application without resorting to the procedure of contempt. In this reported case, the service of one Para Teacher of Bajitpur High School in the District</i></p>	

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	<p><i>North 24-Paraganas was terminated by the Managing Committee during the period of his contractual appointment without giving him an opportunity of hearing. The Learned Single Judge of the Hon'ble High Court had set aside the order of termination of service and gave direction for disbursement of remuneration to the Para Teacher. The second Writ Application was filed by the said Para Teacher for implementation of the order passed in the first Writ Application, which was dismissed by the Learned Single Judge who heard the second Writ Application on the ground that the said Writ Application was not maintainable without filing contempt application for implementation of the order passed in the first Writ Application. The said order of Learned Single Judge passed in connection with the second Writ Application was set aside by the Division Bench of the Hon'ble High Court and remanded the case to the Trial Judge for hearing out the second Writ Application on merit. So, the ratio of this decision is whether second Writ Application is maintainable for implementation of the order of the first Writ Application without resorting to the procedure of contempt. We do not find any relevance of this decision in the present case.</i></p> <p><i>We have already observed that the appointment of the applicant as part-time Workshop Instructor was for specific period from January 3, 2015 to June 30, 2015. There was no order for continuation of the applicant in service as part-time Workshop Instructor after expiry of June</i></p>	

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	<p>30, 2015, though the applicant discharged his duty by signing in the Attendance Register of the Polytechnic during the month of July 2015 and August 2015. The contention of the applicant that his service is terminated by casting aspersion on him without giving him an opportunity of hearing, is not substantiated from the materials on record. The report of the Enquiry clearly indicates that the applicant was given an opportunity of hearing. Moreover, the applicant is not entitled to get any benefit only on the ground of violation of natural justice, unless the violation of natural justice causes any prejudice to the applicant. In the instant case, we are of the view that no prejudice is caused to the applicant for discontinuation of his service as part-time Workshop Instructor after expiry of his period of contractual service without giving him opportunity of hearing, particularly in the background of conduct of the applicant in the said Polytechnic.</p> <p>In view of our above findings, we cannot persuade ourselves to give any direction to the respondents for engagement / appointment of the applicant as part-time Workshop Instructor in Jnan Chandra Ghosh Polytechnic as prayed by the applicant. However, the applicant has performed his duty by attending the Polytechnic during the month of July, 2015 and August, 2015, for which the applicant is entitled to get his remuneration as per G.O. No. – 557-TET(Poly)/4E-2/2008(Pt-II) dated September 2, 2010, as the service was terminated with effect from July, 2015 by issuing</p>	

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	<p><i>letter on August 31, 2015. The respondent no.4, the Principal, Jnan Chandra Ghosh Polytechnic is, therefore, directed to disburse the salary of the applicant as part-time Workshop Instructor for performing his duty during the month of July, 2015 and August, 2015 within a period of eight weeks from the date of communication of this order.</i></p> <p><i>With the above direction the original application stands disposed of.</i></p> <p style="text-align: center;"><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p style="text-align: center;"><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	

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