

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

**The Hon'ble Mrs. Urmita Datta (Sen)
MEMBER (J)**

-AND-

**The Hon'ble Mr. P. Ramesh Kumar,
MEMBER(A)**

**J U D G E M E N T
-of-
Case No. OA-317 of 2015**

Pinaki Ranjan Gupta.....Applicant .

-Versus-

State of West Bengal & Others.....Respondents

**For the Applicant :- Mrs. Sunita Agarwal,
Learned Advocate.**

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

Judgement delivered on: 24th May, 2019.

**The Judgement of the Tribunal was delivered by :-
Hon'ble Urmita Datta (Sen), Member (J).**

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J U D G E M E N T

The instant application has been filed praying for following relief:-

- i) Order or orders may be passed directing the concerned respondents not to fill-up the vacant post of Trade Instructor without considering the candidature and entitlement of the petitioner for regularization.
- ii) Order or orders may be passed directing the respondents to place all records in connection with the matter, before this Hon'ble Tribunal for rendering conscionable justice. Order or Orders may be passed directing the concerned respondents to pay all the due salary as per Govt. Order and consequential benefits, which the applicant is entitled to.

As per the applicant, in response to Notice dated 03.08.2011 (Annexure-P2), issued for engagement of Part time Instructor in I.T.I., Howrah Homes, he made an application and was engaged by the authority as a Part time Instructor on hourly basis. According to the applicant, though he had worked for continuous five years but he was not allowed to work beyond August, 2013. As per the applicant, he worked diligently and with a meager consolidated pay of Rs. 4,800/- per month but without regularization of his service. Rather the authority terminated him violating the principles of natural justice. Being aggrieved with, he made representation before the authority (Annexure-P3) and subsequently approached the Labour Commissioner, Govt. of West Bengal under Industrial Dispute Act, 1947. However, the Assistant

Labour Commissioner vide his letter dated 22.09.2014 (Annexure-P5) directed him to return back the copy of the petition as he had no jurisdiction to deal with the matter. Thereafter, the applicant has approached this Tribunal.

During the course of hearing, the counsel for the applicant has submitted that since he was working for a considerable period of time, his service should be regularized.

The respondents have filed their reply wherein they have submitted that the applicant was not engaged in a vacant or sanctioned post as there was no vacant/sanctioned post at the time of engagement of the applicant. Part time Instructors were engaged in Centre of Excellence as per Govt. Scheme and they were not being paid from the salary head but from "Other Capital Expenditure Head".

As per the respondents Centre of Excellence Scheme was introduced by the Government of India for upgradation of I. T. Is in the year 2005. At that point of time, no posts of Instructors were created and/or available. At the time of inception/introduction of BBT Courses in Centre of Excellence Scheme and the Institute Management Committee (I.M.C.) was constituted to look after and manage the activities and/or day to day work of such institute. The power was delegated to this I.M.C. in respect of taking decisions including appointment in certain categories of posts/staffs i.e. Instructors, Accountants etc. which are essential to run the scheme as per guidelines of Government of India. However, the said posts were not created and/or made available by the Government of West Bengal, on the contrary, it was I.M.C. with whom the powers were delegated to engage the part time staffs. As the BBT courses under the Centre of Excellence Schemes were to start immediately, without approval/creation of any sanctioned post, the respective I.M.C. decided to appoint Instructors on part time/contractual basis to run the course. For such appointment, Govt. of West Bengal did not accord any approval for the said posts where the applicant was engaged

rather the IMC engaged the applicant on contractual basis to mitigate the immediate need as empowered as per the Memorandum of Understanding signed between the Government of India and Government of West Bengal. Thus, the I.T.I., Howrah Homes authority engaged the applicant as a Part time Instructor to run the BBT course in basic building construction module as per aforementioned Memorandum of Understanding. Though the said BBT course in basic building construction module under construction and Wood Working Sector of Centre of Excellence Scheme were created vide G.O. No. 574/TET(Trg.)/2E-102/2009 dated 08.12.2010. But in the meantime, Government of India has decided to discontinue/abolish this Centre of Excellence Scheme and to convert the BBT Courses into conventional Craftsman Training Schemes (CTS) as there was no requirement to continue the service of part time Instructor, the said applicant was discharged. Moreover, there was no policy of Govt. of West Bengal to regularize the service of such category of hourly basis Instructor; therefore, there is no scope for the applicant of any regularization. Accordingly, the respondents have prayed for dismissal of the OA.

The applicant has filed his rejoinder where he has more or less reiterated the same facts and submissions made in the OA.

Heard the parties and perused the records. It is noted that the applicant was initially engaged as a part time Instructor on hourly basis though no engagement letter has been enclosed to establish his claim that he is working for five years continuously. On the other hand, though the applicant is claiming that he was working from 2008 but he has referred one notice dated 03.08.2011 (P/2). Further, as per the respondents, the applicant was engaged under certain scheme, that too, on hourly basis and which fact has not been denied by the applicant also.

Therefore, in our considered opinion, he has no vested right to be regularized when he was working on hourly basis and was very much aware of the said fact as per the Notification referred by him. Therefore, we do not find any reason to entertain the instant

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application. Accordingly, the OA is dismissed with no order as to costs.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA(SEN)
MEMBER (J)