

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

The Hon'ble Mrs. Urmita Datta (Sen), Member (J) &
The Hon'ble P. Ramesh Kumar, Member (A).

OA -53 of 2014

Omprakash Khatick Vs. **The State of West Bengal & Ors..**

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><u>23</u> 22.08.2019</p>	<p>For the petitioner : None.</p> <p>For the respondent : Ms. M. Mullick, Learned Advocate.</p> <p>None for the applicant.</p> <p>The instant application has been filed mainly challenging the impugned order dated 27.02.2013 whereby the claim of the applicant for regularization was rejected. Though enough opportunity has been granted to the applicant to appear but it is noted nobody is appearing since 12.02.2018, 02.07.2018, 14.01.2019, 13.05.2019, even today. However, the counsel for the respondent has submitted that the application is not maintainable as the applicant has made multiple prayers. As per the respondent, the applicant was appointed as a casual driver in a project that too, without following any proper selection procedure and against any sanctioned post. Therefore, as per the Apex Court's direction in Uma Devi, the applicant has no</p>	

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<p style="text-align: center;">23 22.08.2019</p> <p>Page /2</p>	<p>right to claim of regularization. Accordingly the respondent has prayed for dismissal of the OA.</p> <p style="text-align: center;">Heard counsel for the respondent and perused the records. It is noted that in the impugned order, the claim of the applicant has been rejected on the following grounds :-</p> <ol style="list-style-type: none"> 1. "In the instant case, there is no sanctioned post of driver under the said project though the petitioner possesses the requisite qualification for the post of driver. Moreover, he was engaged as a casual driver without following any procedure i.e. without any sponsoring from Employment Exchange or through any open advertisement. 2. Therefore, based on the principle laid down in Uma Devi's case and M.L. Kesari's case, this was not only irregular but also illegal engagement. 	

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<p style="text-align: center;">23</p> <hr/> <p style="text-align: center;">22.08.2019</p> <p style="text-align: left;">Sc</p>	<p style="text-align: center;">3. The representation of Shri Om Prakash Khatick is hereby rejected in view of the position explained above and is thus disposed of.”</p> <p style="text-align: center;">Even in their reply the respondents have clearly stated the said plea. No reply has been filed controverting the intention of the respondents. As the applicant was appointed against a non sanctioned post even without following any proper procedure of selection in a project. Therefore, in our considered view, the applicant is not entitled to be regularized as per the principle laid down in the State of Karnataka Vs. Uma Devi (III) reported in (2006) 4 SCC page (1). Therefore, we do not find any reason to interfere with the decision of the respondents. Therefore, OA is dismissed being devoid of merit.</p> <p style="text-align: center;">P. RAMESH KUMAR MEMBER (A)</p> <p style="text-align: center;">URMITA DATTA (SEN) MEMBER (J)</p>	

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