

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

Hon'ble Justice Soumitra Pal, Hon'ble Chairman &
 Hon'ble Dr. Subesh Kumar Das, Administrative Member.

Case No. OA 578 of 2019.

SHRI KRIPAN KUMAR MISTRY - VERSUS- THE STATE OF W.B. & 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>4 1.11.2019.</p>	<p>For the Applicant : Mr. S.K. Sanyal, Advocate.</p> <p>For the State Respondents : Mrs. S. Agarwal, Advocate.</p> <p>In this application Kripan Kumar Mistry, the applicant has challenged the order dated 22nd February, 2019 passed by the Director of Employment, the respondent no. 2(ii), rejecting his prayer for reinstatement as daily rated chawkidar.</p> <p>It is submitted by Mr. S.K. Sanyal, learned advocate for the applicant that since the applicant was engaged as a daily rated chawkidar on 1st January, 2009 and as he fulfils the service conditions, the impugned order is uncalled for and is illegal.</p> <p>Mrs. S. Agarwal, learned advocate appearing on behalf of the State respondent submits that it is evident from the impugned order passed by the Director of Employment that the prayer of the applicant for reinstatement as daily rated chawkidar was rejected as the applicant did not fulfil the conditions as stipulated in the memo dated 23rd April, 2010, 16th September, 2011 and 25th February, 2016 and had rendered service for</p>	

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	<p>eighty-four days in each year instead of 240 days in each year. Moreover, as the engagement of the applicant as daily rated chawkidar was neither approved by the Labour Department nor by the Finance Department, which have not been denied in the petition, no order may be passed.</p> <p style="text-align: center;">Heard learned advocates for the parties.</p> <p>The relevant portion of the impugned order dated 22nd February, 2019 is as under :-</p> <p style="text-align: center;"><i>“.....The matter of continuity of his engagement has been examined in the light of Finance Department(Audit Branch) Memo No.2966-F(P) dt. 23.04.2010 followed by F.D. (Audit) Memo No. 9008(P) dt. 16.09.2011 and Memo No. 1107-F(P) dt. 25.02.2016. It appears from the aforesaid three Memo(s) that the main crieterion of continuity of service of such type of workers, i.e. daily rated workers is to render service for at least 240 days in each year. But in the instant matter, the petitioner rendered service only for 84(eighty four) days in each year.</i></p> <p style="text-align: center;"><i>The aforesaid facts and circumstances are considered.</i></p> <p style="text-align: center;"><i>The engagement of the petitioner as daily</i></p>	

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	<p><i>rated Chowkider was neither approved by Labour Department nor by Finance Department.</i></p> <p><i>The petitioner rendered service only for 84 (eighty four) days in each year which was below the benchmark of 240 days' service in each year for consideration of being continued.</i></p> <p><i>And, for the aforesaid reasons, the order for disengagement to the petitioner issued by the Directorate of Employment vide Memo No. 1R-178/2016/5220-5315A dated 10.08.2017 cannot be set aside.</i></p> <p><i>Accordingly, the prayer of the petitioner for his reinstatement as daily rated Chowkidar is hereby rejected.....".</i></p> <p>We find that the applicant had rendered the service for eighty-four days in each year instead of 240 days in each year. Moreover, the engagement of the applicant as daily rated chawkidar was neither approved by the Labour Department nor by the Finance Department. These facts have not been controverted in the rejoinder. Therefore, no order is passed on the application. The application is rejected.</p> <p>However, the Employment Officer-in-charge, District Employment Exchange, Domkol – the Respondent</p>	

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Skg.	<p>no 2(iv), is directed to release the outstanding dues, if any, in favour of the applicant within four weeks from the date of presentation of a copy of this order.</p> <p>(Subesh Kumar Das) Member (A).</p> <p>(Soumitra Pal) Chairman.</p>	