

ORDER SHEET
West Bengal Administrative Tribunal

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

Case No. OA 580 of 2016

Amal Kumar Jana & Ors.

Versus

The State of West Bengal & Ors.

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<u>10</u> 14/03/2019	<p>For the Applicant : Mr. B.R. Neogi, Mr. G. Singh, Ld. Advocates.</p> <p>For the State Respondent : Mr. S. N. Ray, Ld. Advocate.</p> <p>The applicants have prayed for direction upon the respondents to pay enhanced remuneration as per notification issued by Government of West Bengal from time to time after setting aside order dated February 17, 2016 issued by the Additional Chief Secretary to the Government of West Bengal, Department of Home, Police Establishment Branch by which prayer of the applicants for payment of enhanced remuneration as full time casual employees was turned down.</p> <p>The contention of 53 applicants is that they have been engaged as full time casual/daily rated/contractual employees in different establishments under Superintendent of Police, North 24 Parganas and Commissioner of Barrackpore Police Commissionerate and Commissioner of Bidhannagar Police Commissionerate. The further contention of the applicant is that their names were recommended by the Superintendent of Police, North 24 Parganas for</p>	

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	<p>granting them financial benefit in terms of Memorandum issued by the Finance Department, Audit Branch, Government of West Bengal for payment of remuneration as full time casual/daily rated/contractual employees. The applicants also submitted representation for enhancement of remuneration as full time casual/daily rated/contractual employees in terms of memorandum issued by the Finance Department, Audit Branch, Government of West Bengal. Previously, this Tribunal gave direction to the Additional Chief Secretary to the Government of West Bengal, Department of Home, Police Establishment Branch for consideration of the issue whether the applicants are entitled to get financial benefit as full time casual employee in terms of Finance Department Memorandum issued from time to time by an order dated July 22, 2014 passed in OA-736/2014. The Additional Chief Secretary to the Government of West Bengal, Department of Home, Police Establishment Branch ultimately decided that the applicants are all part time casual employees and as such they are not entitled to get enhanced remuneration in terms of Memorandum No. 9008-F(P) dated September 16,2011 and subsequent memorandum issued by the Finance Department, Audit Branch, Government of West</p>	

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	<p>Bengal by passing a reasoned order on February 17, 2016, which is under challenge in the present application.</p> <p>Mr. Bikash Ranjan Neogi, Learned Counsel appearing on behalf of the applicants contends that the applicants are all full time casual employees and as such their names were forwarded by the Superintendent of Police, North 24 Parganas to the higher authority for granting them enhanced remuneration in terms of Finance Department memorandum applicable to full time/casual/contractual employees. On our query, Mr. Neogi has failed to point out from the materials on record that the applicants were engaged as full time casual employees at any material point of time. Relying on decision of the Hon'ble Supreme Court in "Sabha Shanker Dube V Divisional Forest Officer and Others" reported in AIR 2019 SC 220, Mr. Neogi argues that the applicants are discharging duty of temporary government employees and as such they are entitled to get minimum basic pay of the pay-scale applicable to temporary employees. On consideration of the case of "Sabha Shanker Dube" (Supra) we find that temporary government employees are entitled to minimum of pay scale applicable to regular employees working on the same post on the principle of "equal</p>	

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	<p>pay for equal work”. In the instant case, there is nothing on record to indicate that the applicants were engaged as temporary government employees at any material point of time and as such the ratio of “Sabha Shanker Dube” (Supra) has no manner of application in the facts of the present case.</p> <p>Mr. S.N. Ray , Learned Counsel representing the state respondents has pointed out from the reasoned order under challenge in the present application that the Superintendent of Police, North 24 Parganas has submitted report on December 14, 2015, December 29, 2015 and February 01, 2016 whereby the Superintendent of Police, North 24 Parganas has clearly pointed out that all the applicants are part time workers and as such they are not entitled to get benefit for enhancement of remuneration applicable to full time casual/daily rated/contractual employees in terms of Finance Department memorandum issued by Government of West Bengal.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that on January 20, 2012 Superintendent of Police, North 24 Parganas forwarded the names of all the applicants to Deputy Inspector General of Police (Administration), West</p>	

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	<p>Bengal by disclosing the fact that all the applicants have been rendering service as casual employees. The document marked collectively by Annexure-B does not indicate whether the applicants have been working as full time casual employees or part time casual employees. However, the said document and the particulars of each of the applicants disclosed in the said document clearly point out that they were engaged as casual employees on the basis of monthly remuneration @ Rs. 2000/- only. No document is forthcoming before us to indicate that the applicants were paid more than Rs. 2000/- per month at any material point of time. The said document unerringly points out that the applicants were mostly engaged as Sweeper or Water Carrier on the basis of monthly remuneration of Rs. 2000/- in terms of Finance Department Memo no. 3727-F dated May 20, 2009. In view of our above observation, we are constrained to hold that the reasoned order dated February 17, 2016 passed by the Additional Chief Secretary to the Government of West Bengal, Department of Home, Police Establishment Branch is legal, valid and binding on the applicants.</p> <p>Since the applicants have been working as part time casual employees mainly as Sweeper or Water Carrier and getting remuneration @ Rs. 2000/- per</p>	

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Csm	<p>month, we are of the view that the applicants are entitled to get enhanced remuneration @ Rs. 3000/- per month w.e.f. January 01, 2018 in terms of memorandum no. 7284-F(P₂) FA/O/2M-01 dated November 27, 2017 issued by the principal Secretary to the Government of West Bengal, Department of Finance, Audit Branch, Government of West Bengal.</p> <p>With the above observation, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both the parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	