

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

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Dr.Subesh Kumar Das (Administrative Member)

Case No. OA-605 OF 2019**ACHINTA HAZRA 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 style="text-align: center;"><u>02</u> 09.09.19</p>	<p>For the Applicant : Mr.M.K.Sanyal Mr.D.Sanyal Advocate</p> <p>For the Respondents : Mrs.S.Agarwal Advocate</p> <p style="text-align: center;">Affidavit of service filed today be kept on record.</p> <p>In this application, the applicant, a part-time sweeper on and from 1st September, 2008, has challenged the reasoned order dated 22nd February, 2019 passed by the Director of Employment, West Bengal which has been passed pursuant to the directions contained in the order dated 4th December, 2018 passed in OA-1151 of 2017, Achinta Hazra Vs. The State of West Bengal and Ors. In the application the applicant has challenged the said reasoned order.</p> <p>Mr.M.K.Sanyal, learned advocate appearing on behalf of the applicant submits that since the applicant, though a part-time sweeper, was engaged on 27th January, 2008 following the approval of the Director of</p>	

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	<p>Employment, West Bengal, appropriate order may be passed. In this regard he has referred to the statements made in the application as well as the grounds.</p> <p>Mrs.S.Agarwal, learned advocate appearing on behalf of the State respondents submits that since the appointment of the applicant as a sweeper was on part-time basis and did not have a necessary approval either of the labour department or of the finance department, no order may be passed. Submission is no challenge has been made to the memo. dated 23rd April, 2010, 16th September, 2011 and 25th February, 2016 which has been relied on in the reasoned order passed by the Director of Employment.</p> <p>Heard learned advocates for the parties.</p> <p>The Director of Employment while rejecting the claim of the applicant has passed an order, the relevant portion of which is as under:</p> <p><i>“.....On hearing the petitioner and after verification of the relevant records, it appears that the petitioner was engaged with effect from 01.09.2008 as Part-time Sweeper on rotational basis from a panel of seven candidates duly</i></p>	

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	<p><i>approved by the Directorate of Employment. The said engagement, however, was neither approved by Labour Department nor by Finance Department.</i></p> <p><i>While examining the Government Orders providing continuity of the service of the part-time sweepers, it is found that that the same has been provided for the casual/daily-rated/contractual workers vide Finance Department (Audit Branch) Memo. No. 2966-F(P) dt. 23.04.2010 followed by Memo. No. 9008(P) dt. 16.09.2011 and Memo. No. 1107-F(P) dt. 25.02.2016, but there is no such provision for the part-time sweepers.</i></p> <p><i>Whereas, the engagement of the petitioner as Part-time Sweeper was neither approved by Labour Department nor by Finance Department, and</i></p> <p><i>Whereas, there is no Government Order providing continuity of service of the part-time sweepers,</i></p> <p><i>Therefore, the order for disengagement of the petitioner issued by the Directorate of Employment vide Memo. No. 1E-178/2016/5220-5315A dated 10.08.2017 cannot be set aside.</i></p> <p><i>Accordingly, the prayer of the petitioner for his</i></p>	

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BLR	<p><i>reinstatement as Part-time Sweeper is hereby rejected.</i></p> <p><i>The representation of the petitioner, therefore, stands disposed of."</i></p> <p>Admittedly, after being approved by the Director of Employment, the applicant was engaged as a part-time sweeper on rotational basis. However the said panel was neither approved by the labour department nor by the finance department. We find that the reasoned order has been passed on the basis of the memo. dated 23rd April, 2010, the memo. dated 16th September, 2011 and the memo. dated 25th February, 2016 which have not been challenged in the application. Moreover the finding that there is no Government order providing continuity of service to part-time sweepers has gone unchallenged. Therefore, the Original application lacks of merit. Hence, no order is passed on the application. The application is dismissed.</p> <p style="text-align: center;">(S.K.DAS) MEMBER (A)</p> <p style="text-align: center;">(SOUMITRA PAL) CHAIRMAN</p>	

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