



**OA 91 of 2019**

**J U D G E M E N T**

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

- a) A direction to issue upon the state Respondent Authorities to forthwith cancel and/or the impugned order dated 01.11.2018 being passed by the Respondent No. 3 without following the procedure laid down in Rule 10 of WBS (CCA) Rules of 1971.
- b) A direction to issue upon the concerned Respondent Authorities to forthwith produce and cause to be produced the entire records relating to applicant case so that conscionable justice upon the same may be granted to the applicant.
- c) Cost and compensation;
- d) And/or to pass of any other or orders as Hon'ble Tribunal may deem fit and proper.

As per the applicant, he was appointed in the post of Darwan-cum-Night Guard w.e.f. 01.12.2005 at a consolidated remuneration of Rs. 1,650/- per month on contractual basis by the Mess Committee with the approval of B.C.W. Directorate. (Annexure-P/2). However, while working on contractual basis, he was not granted benefit of Memo dated 06.09.2011 (Annexure-P/3) followed by Memo dated 25.02.2016 (Annexure-P/4). However, he had filed one OA application being No. OA-243 of 2018. However, subsequently the applicant was served with an order of termination dated 01.11.2018 (Annexure-P/5). Being aggrieved with, he has filed this instant application.

According to the applicant, though he was working for a long time and had approached this Tribunal with an application being no. OA-243 of 2018, however, while pendency of the said OA, the applicant was terminated without following the procedure as prescribed for disciplinary proceedings.

Though, no reply has been filed by the respondents, however, during the course of hearing, the counsel for the respondent has drawn our attention

to the impugned order dated 01.11.2018 and has submitted that the applicant is a contractual employee and after receiving the complaints against the applicant, he was served with Show Cause Notice on 05.09.2018. Even one criminal case is also pending against him, however, he has chosen not to respond the said show cause notice. He was heard personally as well as witnesses and thereafter he was terminated. Therefore, there is no violation of natural justice. Moreover, as he is not a regular government employee, there is no question of following strict provisions of the disciplinary proceedings, however, he was granted enough opportunity to place his case and his contract was rightly terminated by the authority.

We have heard the parties and perused the records. It is noted that, in the meantime, OA No. 243 of 2018 was disposed of vide Order dated 10.07.2019 recording the fact that the applicant was terminated vide Order dated 01.11.2018, however the respondents were directed to consider his case for enhancement of remuneration in terms of Memo dated 25.02.2016.

Admittedly, the applicant is a contractual employee, therefore, strict compliance of disciplinary proceedings as per provisions of W.B. (CCA) Rules, 1971 is not applicable to him. However, after going through the impugned order, it is noted that there are serious charges against the applicant even one criminal case was pending against him. He was granted enough opportunity to place his case and ultimately the authority had terminated his contractual service.

In view of the above, we do not find any reason to entertain the instant applicant. Accordingly, OA is dismissed being devoid of merit.

**P. RAMESH KUMAR**  
**MEMBER (A)**

**URMITA DATTA(SEN)**  
**MEMBER (J)**