

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

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

OA-966 OF 2014

Sandhya Bairagi

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>15</u> 19.11.2018</p>	<p>For the applicant : Mr. S.C. Bagari, Learned Advocate..</p> <p>For the respondent : Mr. A.L. Basu, Learned Advocate.</p> <p>The instant application has been filed praying for following relief :-</p> <p>a) To pass an order directing the respondent authorities to produce the relevant records and documents before this Hon'ble Tribunal for passing appropriate order in the said case.</p> <p>b) To pass an order thereby directing the Respondent authorities to appoint the applicant as Group-D permanent staff of State Government in pay scale in terms of the Memo No. 2433 dated 01.03.1995 as also evident from the order dated 11.12.2012 passed by the respondent No. 6 i.e. Block Development Officer, Pather Pratima.</p> <p>c) To pass an order thereby directing the</p>	

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<p style="text-align: center;">15 19.11.2018</p> <p>Page /2</p>	<p>Respondent authorities to set aside and/or cancel and/or rescind the Memo No. 284(6) dated 26.03.1996 as pay of the applicant has been illegally and arbitrarily reduced to Rs. 1000/- per month.</p> <p>d) To pass an order thereby quashing and/or rescinding and setting aside the orders dated 12.12.2012 and 20.12.2012 passed by the Block Development Officer, Pather Pratima Development Block, Ramganga, being respondent No. 6.</p> <p>Heard both parties. The counsel for the respondent has raised preliminary objection with regard to the maintainability of the OA. As per the respondents, the applicant was initially selected on the recommendation of Artha Sanstha Unnayan & Sthayee Samity under the Pather Pratima Panchayet Samity. Therefore, this Tribunal has no jurisdiction to entertain this application since it is not a State Govt. Deptt.</p> <p>However, counsel for the applicant has</p>	

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<p style="text-align: center;">15</p> <hr/> <p>19.11.2018</p> <p style="text-align: left; margin-top: 200px;">Page /3</p>	<p>submitted that this Tribunal has jurisdiction as this Tribunal had earlier entertain the application of this applicant. However, it has been submitted that the applicant was appointed initially by the B.D.O. and worked there for 10 months, therefore, the applicant is entitled to be continued in the said post.</p> <p style="text-align: center;">During the course of hearing, the counsel for the applicant has submitted that the husband of the applicant was a State Govt. employee, therefore, her prayer for consideration of compassionate appointment is within the jurisdiction of this Tribunal.</p> <p style="text-align: center;">We have heard both the parties and perused the record. From the perusal of the record, it is noted that the applicant had prayed for quashing and setting aside of the order dated 12.12.2012 and 20.12.2012.</p> <p style="text-align: center;">From the perusal of the order dated 12.12.2012, it is noted that as per the Respondent, B.D.O., Pather Pratima is not the competent authority to appoint the applicant in such a post. Further the</p>	

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<p style="text-align: center;">15</p> <hr/> <p>19.11.2018</p> <p style="text-align: right;">P/4</p>	<p>applicant had been drawing her monthly remuneration from the Pather Pratima Panchayet Samity and the B.D.O. in his erstwhile order dated 11.12.2012 also recorded that the applicant is working on the basis of the selection/recommendation made by the Artha Sanstha Unnyan & Sthayee Samity under the Pather Pratima Panchayet Samity. The aforementioned fact was not disputed by the applicant. From the perusal of reply, it is found that the post of Pankhapuller was abolished since 1995, however, on sympathetic ground the applicant was appointed temporarily as Pankha Puller in pursuance to the decision of Artha Sanstha Unnyan & Sthayee Samity under the Pather Pratima Panchayet Samity (Annexure-C) . It is settled principle of law that the jurisdiction of any Court cannot be created by the consent of the parties or direction of the Court, if the said Court does not have the jurisdiction over the said subject or issue. In the instant case also, as the applicant has challenged the order dated 12.12.2012 & 20.12.2012, wherein it has been categorically stated that the applicant was specifically appointed on the basis of recommendation/decision of the then Artha Sanstha Unnyan & Sthayee Samity under the Pather Pratima</p>	

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<p>15 19.11.2018</p>	<p>Panchayet Samity and B.D.O. was also not having authority to appoint the applicant in this case. Hence the B.D.O. after realising his mistake has cancelled the appoint letter. Thereafter the applicant was appointed on temporary basis by the Panchayet Samity with the recommendation of its Artha Shanstha Unnyan and Sthayee Samity as any appointee of Panchayet Samity is not holder of civil post. Hence, we do not have the jurisdiction to tntertain the instant OA.</p> <p>In view of the above, in our opinion, we do not have the jurisdiction over this issue as the applicant was appointed by the Pather Pratima Panchayet Samity. Accordingly, the OA is dismissed for want of jurisdiction with no order as to costs.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER (J)</p>	

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