

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble Justice Ranjit Kumar Bag  
& The Hon'ble Dr. Subesh Kumar Das**

**Case No – OA 856 OF 2019**

Tridip Kumar Jha & Others v/s 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
4 06.02.2020	<p>For the Applicants : Mr. S. Ghosh, Mr. R.K. Mondal, Learned Advocates.</p> <p>For the State Respondents : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicants have prayed for direction upon the respondents for payment of enhanced remuneration as casual employees in terms of memorandum No. 3998-F(P2) dated July 15, 2019 issued by the Finance Department, Audit Branch, Government of West Bengal after setting aside the impugned order dated July 17, 2018 passed by the Executive Engineer, Teesta Canal Division No. 1, Islampur, whereby the claim of the applicants for payment of enhanced remuneration was turned down.</p> <p>The contention of twenty seven (27) applicants is that they have been engaged as daily rated casual employees from the year 1990, and they have been receiving remuneration @9000/- p.m. The applicants previously approached this Tribunal by filing OA 825 of 2016 which was disposed of on December 9, 2016. In compliance with the direction given by the Tribunal in OA 825 of 2016 and MA 193 of 2016, respondent No. 6 of the previous original application passed a reasoned order on July 5, 2017 by granting enhancement of monthly remuneration of the applicants to the tune of Rs.10000/- p.m. w.e.f. December 1, 2016. However, the said reasoned order of the respondent No. 6 was subsequently suspended by issuance of another order by the said respondent No. 6 on June 5, 2018. In the</p>	

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mean time, one contempt application being CCP 54 of 2017 was filed before the Tribunal for wilful violation of the orders passed in OA 825 of 2016 by the contemnors. On January 31, 2019, the said contempt application (CCP 54 of 2017) was disposed of by making observation that the order passed by the respondent No. 6 on June 5, 2018 was in substantial compliance of the order passed by the Tribunal in OA 825 of 2016 and thereby the contempt application was disposed of. However, the Tribunal gave liberty to the applicants to challenge the said order dated June 5, 2018 passed by the respondent No. 6.

On July 17, 2018 the respondent No. 6 passed another reasoned order, whereby the claim of the applicants for getting enhanced remuneration as daily rated casual employees was turned down. The applicants have challenged the said reasoned order dated July 17, 2018 passed by the respondent No. 6 of the previous original application without challenging order dated June 5, 2018 passed by the said respondent No. 6 for which liberty was granted by the Tribunal in CCP 54 of 2017. Subsequently, the respondent No. 6, Executive Engineer, Teesta Canal Division No. 1, Islampur forwarded the case of the applicants to the respondent No. 5, Superintending Engineer, Mahananda Barrage Circle for enhancement of monthly remuneration and improvement of other service conditions of the daily rated casual employees who were engaged for a period of 240 days in a calendar year w.e.f. November 25, 2011.

With the above factual matrix, Mr. Ghosh, Learned Counsel for the applicant contends that the applicants have been rendering service as daily rated casual employees for more than 240 days in a calendar year and as such they are entitled to get enhanced remuneration and

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other benefits of service as daily rated casual employees in terms of the memorandums issued by the Finance Department, Audit Branch, Government of West Bengal. He has also cited the instance of payment of enhanced remuneration to the similarly circumstanced daily rated casual employees working under Executive Engineer, Mahananda Barrage Division in the Directorate of Irrigation and Waterways in terms of office order issued by the Executive Engineer, Mahananda Barrage Division on November 30, 2016.

Mr. Banerjee, Learned Counsel representing the State respondents contends that the claim of the applicants may be considered by the Department of Irrigation and Waterways, Government of West Bengal on the basis of the letter dated July 17, 2019 addressed to the respondent No. 5 by the respondent No. 6 on July 17, 2019 (annexure D to the original application).

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the decision whether the applicants are entitled to get enhanced remuneration and enjoy other benefits of service as daily rated casual employees in terms of the memorandums issued by the Finance Department, Audit Branch, Government of West Bengal should be taken by the Departmental Secretary, but in the present case the decision has been taken by the respondent No. 6, Executive Engineer, Teesta Canal Division No. 1. Accordingly, we would like to hold that the final decision as to whether the applicants are entitled to get enhanced monthly remuneration and enjoy other conditions of service as daily rated casual employees for rendering service from the year 1990 onwards should be taken by the Departmental Secretary in

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accordance with law.

In view of our above observations, we direct the respondent No. 5, Superintending Engineer, Mahananda Barrage Circle to forward the case of (twenty seven) 27 applicants to the respondent No. 1, Additional Chief Secretary to the Government of West Bengal, Department of Irrigation and Waterways through proper channel on the basis of the letter addressed to him by the respondent No. 6 (annexure D to the original application) within a period of four weeks from the date of communication of the order. The respondent No. 1, Additional Chief Secretary to the Government of West Bengal, Department of Irrigation and Waterways is directed to consider whether the applicants are entitled to get enhanced monthly remuneration and enjoy other conditions of service as daily rated casual employees in terms of memorandum No. 9008-F (P) dated September 26, 2011 and subsequent memorandums issued in this regard by the Finance Department, Audit Branch, Government of West Bengal on verification of office records by passing a reasoned order within a period of eight weeks from the date of receiving the case of the applicants from the Directorate of Irrigation and Waterways, Government of West Bengal and take necessary follow-up action within a period of four weeks thereafter.

With the above direction, the original application stands disposed of.

Let a plain copy of the order be supplied to both the parties.

**S. K. DAS**  
**MEMBER(A)**

**R. K. BAG**  
**MEMBER(J)**

Rajib

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