

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. OA – 194 of 2023**

**Kanai Basfore - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. S. Bhattacharjee, Learned Advocate
<u>9</u> 21.03.2025	For the Respondents	: Mr. M.N. Roy, Learned Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for setting aside the impugned reasoned order passed by the respondent – Principal Secretary, Department of Correctional Administration on 25.3.2022. Such reasoned order was passed in terms of direction of this Tribunal in O.A. 352 of 2020. According to Mr. S. Bhattacharjee, learned counsel appearing for the applicant, this applicant was indeed engaged against a sanctioned post as evident from Memo 1268 dated 29.4.2020 issued by the Superintendent, Balurghat Central Correctional Home.

On closure examination of the reasoned order, the Tribunal's attention is drawn to para 6 in which the Principal Secretary has stated that the applicant was not sanctioned against any post nor any supporting documents are available to support this claim. The reasoned order also refers to Memo No. 1126 dated 25.3.2022 issued by the AIG (HQ) and Memo 926 dated 24-03-2022 issued by the Superintendent.

Mr. Roy, learned counsel files copies of Memo No. 1126 dated 25.03.2022 enclosing Memo No. 926 dated 24.03.2022. By Memo No. 926, the Superintendent, Balurghat Central Correctional Home has recorded the word 'No' against the column "Whether engagement of Shir Kanai Basfore was made against any sanctioned post". The Tribunal observed that by another Memo No. 1268 dated 29.04.2020, the same Superintendent had recorded 'Yes' against the same question that the applicant was engaged against the sanctioned post. Submission is that the applicant has worked more

**ORDER SHEET**

Form No.

**Kanai Basfore**

**Vs.**

Case No. **OA – 194 of 2023**

THE STATE OF WEST BENGAL & ORS.

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than 20 years with 240 days in a year since 01.03.1991 and was also certified by the Superintendent of his appointment being against a sanctioned post by memo no. 1268 dated 29.04.2020.

The fact of the applicant having worked in the capacity of a casual extra temporary Sweeper since 01.03.1991 is not in dispute. It is also not in dispute that the applicant had since his first year in 1991 worked for more than 240 days in a year. Although in a Memo No. 1268 dated 29.04.2020, the Superintendent, Balurghat Central Correctional Home recorded 'Yes' for the applicant having been engaged against a sanctioned post but subsequently this statement was changed by the same Superintendent to 'No' in his Memo 926 dated 24.03.2022. The Additional AIG (HQ) of Correctional Services in his Memo 1126 dated 25.03.2022 also confirms that Kanai Basfore, the applicant was not engaged against any sanctioned post. From the records, it is clear that the applicant's engagement was not against any sanctioned post. Para(x) of the Finance Department Memorandum No. 9008-F(P) dated 16.09.2011 stipulates that these benefits will not be applicable to those whose engagement was not made against any sanctioned post. In terms of such policy, the applicant whose engagement was not against any sanctioned post was not entitled for any benefits, neither under Memorandum 9008 nor any other follow up Notifications issued by the Finance Department relating to enhanced remuneration.

This Tribunal is clear in its understanding that payment of wages to category of employees is a policy matter, in which the State authorities have the sole discretion. This Tribunal is aware that although this applicant has been serving as a casual worker for more than 20 years but unfortunately, he is outside the benefits of remuneration as stipulated in these Notifications. The respondent authority while passing the reasoned order regretting his prayer were correct and such decision was fully in tune with the Government Notifications. Whether such casual workers who have been working for more than 20 years and serving more than 240 days in the year should be covered under this Notification for enhanced remuneration is a policy matter, in which the State

**ORDER SHEET**

Form No.

**Kanai Basfore**

**Vs.**

Case No. **OA – 194 of 2023**

**THE STATE OF WEST BENGAL & ORS.**

authorities need to consider and take a decision.

Having observed the above, the Tribunal comes to this conclusion that the reasoned order passed by the Principal Secretary, Department of Correctional Administration on 25.03.2022 regretting his prayer for enhanced remuneration was well within the ambit of the law and there was no illegality in taking such a decision. Therefore, this application is disposed of without passing any orders.

**SAYEED AHMED BABA**  
**OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P.