

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER

Case No. –OA 193 of 2017

Subrata Bandyopadhyay & Ors. - Vs - The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. A. Maity,
Learned Advocate.

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15.05.2024

For the State Respondents : Mr. G.P. Banerjee,
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 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

By filing this application, the applicants have prayed for a direction to the respondent authorities to regularise their services as lecturers in different govt. polytechnic colleges. In the year 2006, the Deptt. of Technical Education & Training engaged a number of lecturers for their polytechnics on contractual basis, initially for a period of six months but renewed at regular intervals. The appointment letters also reminded the adhoc/contractual lecturers that their appointments are not only contractual but will not give them any right in future to claim for a post on regular basis. A written undertaking was also obtained from each of them. Sometime in the year 2010, the Deptt. moved a proposal for approval of Cabinet seeking absorption of total 63 number of contractual lecturers in the Department. The proposal justified such initiative on the ground that the selection of regular lecturers through P.S.C. is not only time consuming but services of regular lecturers are urgently needed for teaching in the increasing number of polytechnics. Though, the Cabinet approved the proposal but at a later stage, it was pointed out by the Learned Advocate General and the Learned Legal

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Remembrancer that such proposal will be in violation to the Judgement passed by the Hon'ble Supreme Court in the case of State of Karnataka Vs. Uma Devi & Ors. Thus, such intended action on the part of the respondent department will be in violation of Article 320 of the Constitution of India. The competent authority accepted the opinion of the Ld. A.G. & Ld. L.R. and the proposal was not put into further action and as a result of such, the lecturers earlier appointed on contractual basis, remained so and continued to work on contractual basis.

Appearing on behalf of the petitioners, Mr. Maity submits that the respondent Department cannot turn away from the decision of the Cabinet. It is argued that the opinions expressed by Ld. A.G. & Ld. L.R. cannot overrule the decision of the Cabinet. Further submission of Mr. Maity is that the Cabinet had accepted the proposal for regularisation of the contractual lecturers on regular establishment due to exigencies faced by the Deptt. Having done so, the Deptt. now cannot take the plea of Uma Devi's case, as facts in this case are completely different from the Uma Devi's case. Concluding his submission, Mr. Maity prefers to mention relevant paras from the Civil Appeals arising out of SLP (c) 2224-42 OF 2016 IN Vinod Kumar & Ors. Vs. Union of India.

Responding on behalf of state respondents, Mr. Banerjee, learned counsel submits that though the Cabinet had approved the proposal but the same was not executed in the face of opinion expressed by the Ld. A.G. & Ld. L. R. Their opinions were accepted. Mr. Banerjee further submits that in terms of Rules of Business, the Govt. can always decide not to execute any of its decision taken earlier. Mr. Banerjee submits that one of the lecturers and similarly circumstanced though not an applicant in this application had earlier moved this Tribunal in OA-1222 of 2012. The Tribunal after finding no merit,

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dismissed the prayer in the application.

Let the matter appear under the heading Further Hearing on
03.09.2024.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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