

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 322 of 2022.

SRI SASTI PADA MONDAL- VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

10  
25.4.2024

For the Applicant : Mr. S.K. Santra,  
Advocate.

For the State Respondents : Mrs. S. Agarwal,  
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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

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

In terms of direction of this Tribunal, the Principal Secretary, Department of Correctional Administration passed the reasoned order which rejected accepting the prayer of the applicant for enhanced remuneration under Notification 1107-F(P) dated 25.02.2016 and 1033 dated 08.02.2019. After elaborate reasoning, the respondent authority remarked that such benefits are not admissible to the applicant for the primary reason that his engagement was not against a sanctioned post as stipulated in Notification 9008. The relevant lines of this Notification is as under :-

*“....The provisions of this Order will not be applicable where contractual engagement has been made without any sanctioned post and for any specific project .....”.*

Aggrieved by such decision of the respondent authority, this application has been filed.

Earlier such a proposal seems to have been submitted before the Finance Department which after examination opined that the applicant as a casual

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worker was engaged by the local authority on their own and not against any sanctioned post with the express approval of the competent authority. Therefore, he was not entitled to any benefit under Notification 1107-F(P).

The primary issue before this Tribunal is to decide whether the applicant was appointed even on temporary basis as a casual employee against any sanctioned post or not.

For this, Mr. S.K. Santra has drawn my attention to a list in which the applicant has been shown as engaged against a sanctioned post. This letter appears to be part of the correspondence between the Department of Correctional Administration and the DG & IG of Correctional Services dated 07.02.2020. Attention is also drawn to a correspondence dated 17.9.2020 in which the Superintendent, Alipore Central Correctional Home informs the DG & IG that the applicant has been drawing his enhanced remuneration as per G.O 9008 F(P) dated 16.9.2011. Having presented the above documents, Mr. Santra finally submits that, as is clear from the above documents, the applicant has been receiving enhanced remuneration under 9008F(P) and therefore, is entitled to receive further enhanced remuneration as per Notification Nos. 1107 and 1033 dated 25.02.2016 and 08.02.2019 respectively.

Mrs. Agarwal, State learned counsel differs from Mr. Santra's submission and argue that the applicant having not been appointed against any sanctioned post is not entitled to receive any enhanced remuneration under these Notifications. For instance, Mrs. Agarwal refers to the engagement letter at page 23 of the original application. It appears from this reference that on 29<sup>th</sup> March, 2006, the AIG of Correctional Services (S & HQ) WB had considered the prayer of the applicant and on the recommendation of the visiting Surgeon engaged him as an attendant to the OT of the hospital. Such engagement was only for three days in a week at the rate of Rs. 300/ per month. Mrs. Agarwal also points out that though the applicant has been shown engaged against the sanctioned post, but in the same statement, it is stated that he has been engaged 240 days in a year since 2010.

As per Notification 9008 appearing at third para, such benefits are

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applicable only to those employees who had been working for more than ten years continuously as on 01.8.2011. Therefore, since the statement makes it clear that the applicant had worked only for one year as on 01-08-2011, therefore, he is not entitled to such benefits under 9008 Notification.

The primary point of consideration in this application is to examine and see whether the applicant was appointed against a sanctioned post or not. It also has to be seen whether such appointment was issued by the competent authority. From the records, and in particular, the engagement letter dated 29.3.2006, it is clear that the applicant was engaged on an adhoc basis for 3 days a week. Such engagement by the AIG appears to be his personal decision and neither against a sanctioned post nor with the approval of the Government. The Tribunal is not satisfied that such ad hoc engagement letter will entitle the applicant for benefits meant for regular employees. Mere fact that some benefits were given earlier under Notification – 9008-F(P) does not confer any right to the applicant for similar benefits under Notification 1107-F(P). The applicant has not been able to establish the fact that his engagement was against a sanctioned post.

Therefore, finding no fault in the Reasoned Order passed by the respondent authority, this application is disposed of without any orders.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Skd.