

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 604 of 2022.

EKTESWAR ADHIKARY- VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

06
29.04.2024

For the Applicant : Mr. I. Roy,
Learned Advocate.
For the State Respondents : Mr.S. Ghosh,
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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed for setting aside the impugned reasoned order passed by the Principal Secretary, Water Resource Investigation and Development Department on 22.07.2022. Such a reasoned order was passed in terms of a direction of this Tribunal in OA 736 of 2021.

By this reasoned order, the respondent decided that the applicant was not eligible for any benefit under memorandum 9008-F(P) dated 16.09.2011. Therefore, he is also not eligible for any such benefit under other Notifications like 1107-F(P) dated 25.02.2016 and 4011-F(P) dated 20.05.2013.

The reasoned order also refers to a departmental communication and describes the applicant as a daily rated worker, who was not appointed against any sanctioned post. Mr. Roy refers to a document No. 314 dated 2012.2018 in which the Assistant Engineer (A-M) informs the Executive Engineer (A-M) that it can be presumed that the applicant was engaged earlier as a helper against a vacant post. Such assumption is due to the fact that the post of helper was lying vacant at that point of time. Mr. Roy submits that the applicant was originally engaged on

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contractual basis. Though it has been established that the applicant was appointed as a helper on contractual basis since February, 1998, but no proof presented for any subsequent absorption into regular service against any existing sanctioned vacancy. Mr. Roy draw attention to para (i) of Memo 9008-F(P) dated 16th September, 2011, the relevant part which is as under :-

“(i).....The casual/daily rated/contractual workers who have rendered 10 years of service continuously with at least 240 days attendance each year may remain engaged in the same status and capacity till their attaining the age of 60 years...”

In support of the applicant and relying on the above para, Mr. Roy argues that the applicant is very much eligible under Notification No.9008-F(P) and thus benefits under this and other similar notifications .

Responding on behalf of the State respondents, Mr. Ghosh refers to para (x) and submits that the applicant was never engaged against any sanctioned post and therefore not entitled for any benefits under this Notification or other Notifications. The para (x) of the Notification 9008-F(P) is as under :-

“(x).....The provisions of this Order will not be applicable where contractual engagement has been made without any sanctioned post and for any specific project for a very temporary period upto a maximum 6(six) years orup of the project whichever is earlier. Thus in such cases steps will not be required to be initiated for filling up the posts through regular appointments as per the Recruitment Rues, since the posts are temporary by nature.....”

The matter will come under the heading “Further hearing” on 24th December, 2024.

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

Sk.

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