

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-495 of 2021

Biplab Ketan Ghatak and Others. -- VERSUS – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicants

: Mr. Jamiruddin Khan,
Learned counsel.

16
04.04.2025

For the State Respondents

: Mr. Goutam Pathak Banerjee,
Learned counsel.

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.

The applicants in this application have prayed for a direction to the respondent authorities to absorb them into permanent establishment with regular pay and allowances. From the submissions and records, it is observed that the applicants were appointed as Lecturers in several Government Polytechnics on contractual basis, initially for the first six months, thereafter, by a Notification dated 26.02.2021 till 60 years. This notification also enhanced the remuneration to 35,000/- per month with the added terminal benefit of Rs. 3 Lakhs.

Submission of Mr. J. Khan, learned counsel for the applicants is summed up as under:-

(i) That by the very admission of the respondent authority as expressed in the Notification dated 26.02.2021, the services of the applicants have been well in advance accepted till they attain the age of 60 years. By such admission and consideration, it is clearly to be understood that not only the services of the applicants so far have been satisfactory, but their services will be required in the coming years also.

(ii) Mr. Khan also finds support in the enhanced remuneration of

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Rs. 35,000/- for each applicant as a lecturer. His contention is that such enhanced remuneration has been ordered to be paid to the applicants for their having such qualification at par with regular appointees and also recognised by the AICTE. Like the earlier point, this also goes to show that the services rendered by the applicants are not only satisfactory, but their qualifications have also been recognized for performing their duties as Lecturers.

- (iii) But having similar educational qualification and performance of duty compared to the regular appointees, these applicants are not treated fairly. Similar the regular lecturers, the applicants have the same qualifications and devote equal or even more hours of duty in their work, but when it comes to either remuneration or other service related benefits, the applicants are still considered as contractual employees.
- (iv) To further prove the point that contractual lecturers are not treated equal to the regular appointees, reference is made to page 7 in the rejoinder. This reference appears to be a letter written by the Principal of Dr. Meghnad Saha Institute of Technology on 09.07.2008 in which it is pointed out, one Tarun Kumar Changdar, lecturer on contractual basis was earlier appointed by the Government against a sanctioned post. Submission of Mr. Khan is that this is a clear evidence to prove that the applicant(s) was appointed against a sanctioned post by the Government.

Concluding his submissions, Mr. Khan reiterates the case of the applicants for regularisation into permanent establishment as lecturers as a

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valid and justifiable demand.

Representing the State, Mr. Banerjee, learned counsel relying on the reply has argued in the following manner : -

- (i) That the posts of lecturers of different disciplines can only be filled up in accordance with the recruitment rules in exercise of the power conferred by the proviso to Article 309 of the Constitution of India.
- (ii) The applicants were not appointed as per the recruitment rules and also not through the Public Service Commission. Instead, they were engaged on contractual basis, so their appointment cannot be termed as regular appointment.
- (iii) That since all the applicants were engaged on purely contractual basis and they had also undertaken not to claim any absorption in regular posts, therefore, no such benefit of regularization and absorption can be extended to them in violation of the recruitment rules and the law settled through the various judicial orders laid down by the Hon'ble Apex Court.
- (iv) Moreover, recently on 22.12.2021 Hon'ble Division Bench of High Court, Calcutta heard four separate Writ Petitions (W.P.S.T. 107 of 2016, W.P.S.T. 29 of 2017, W.P.S.T. 204 of 2016 and W.P.S.T. 210 of 2016) analogously in respect of similar claim of regularization and equal financial benefits for the Lecturers who are working in different Government Polytechnics on contractual basis. The Hon'ble Court without passing any orders in favour of the petitioners, dismissed all

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the said four Writ Petitions.

- (v) The applicants were engaged on contractual basis and their nature of engagement has not been changed when re-engaged subsequently.
- (vi) Moreover, initially they were getting a consolidated pay of Rs. 14,890/- without any allowances, but at present their consolidated monthly pay has been enhanced to Rs. 35,000/- with further increase @3% every year. They are also entitled to terminal benefits of Rs. 3 lakhs after attainment of the age of 60 years.
- (vii) It is specifically stated in each of their orders of engagement that the said appointment is made on purely contractual basis and their service shall automatically terminate after expiry of their present term and that the said appointment will not confer them any right and claim to regular appointment / absorption in any regular post of Government services. The applicants had agreed to abide by these conditions and executed written undertakings to this effect.
- (viii) There is no provision in the recruitment rules to regularize such employees. The applicants working on short-term contract basis cannot claim the status of Government employee.

It is also to be appreciated that not only their appointment were purely on ad hoc basis but such appointment were accepted by the applicants without protest. Unless the terms of any appointment are modified, the applicants continue to be guided by the same wordings of the appointment letter. Engagement and continuation in the same post on ad hoc

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basis does not automatically confer any right upon the applicants. However, the Tribunal would also clearly emphasise the other side of the issue, which relates to action by the respondent Department. It is the aspiration of the employees engaged on contractual / ad hoc basis to be absorbed permanently in regular establishments. It is their expectation that having served satisfactorily, the respondent authorities will absorb them in regular establishments. It would also be unfair on part of the applicants to continue serving in the ad hoc / contractual basis endlessly. Some of the applicants have been serving in this post as lecturer on ad hoc basis since 2009 and have completed a major part of their service life. Such post of lecturer in government polytechnic colleges cannot and ought not continue on ad hoc basis. The respondent authorities must take concrete steps to fill up these posts on regular basis, either through absorption or through fresh recruitment process.

Therefore, a direction is given to the Respondent No. 2, the Secretary now re-designated as the Additional Chief Secretary, Department of Technical Education and Training, to initiate concrete steps in filling the vacant posts of lecturers either through absorption of these contractual lecturers or through fresh recruitment process. Such steps shall be initiated within three (03) months from the date of communication of this order. With this direction, this application is disposed of.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.