

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. P. Ramesh Kumar (Administrative Member)

Case No – OA 615 OF 2019

DHIMAN BISWAS Vs **The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>3</p> <hr/> <p>19.09.2019</p>	<p>For the Applicant : Mr. K. Bhattacharya, Mr. S.K. Pal, Mrs. S. Agarwal, Advocates</p> <p>For the State Respondent : Mr. S.K. Mondal, Advocate</p> <p>For the Respondent No. 3: Mr. M.N. Ray, Advocate</p> <p>Let affidavit of service filed be kept on record.</p> <p>In this application the applicant, a Wireless Supervisor (Technical) Grade-II of West Bengal Police Telecommunication, has prayed for certain reliefs, the relevant portion of which is as under:</p> <p>“(a) To set aside and quash the order dated 09.08.2019 being memo bearing Org No.319 / RO passed by the Respondent no.3 being annexure “P-8” to this application;</p> <p>(b) To keep the posting of the applicant at Barasat Police District till such reconsideration of the representation made by the</p>	

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	<p style="text-align: center;">applicant.”</p> <p>It is submitted by Mr. K. Bhattacharya, learned advocate for the applicant that though the Hon’ble High Court, on 8th July, 2019 had dismissed the writ petition being W.P.S.T. No. 62 of 2019 : Dhiman Biswas Vs. The State of West Bengal & Ors., filed by the applicant against the order of the Tribunal passed on 23rd August, 2018 in O.A. No. 605 of 2018: Dhiman Biswas Vs. The State of West Bengal & Ors., however, in the context of the case as liberty was granted to the petitioner to approach the authority with relevant documents in support of the illness of the petitioner’s wife, and it was directed if such an approach is made, it would be disposed of in accordance with law, appropriate order may be passed. The relevant portion of the order passed in W.P.S.T. No.62 of 2019 on 8th July, 2019 is as under:-</p> <p style="text-align: center;">“The conduct of the petitioner does not inspire us to entertain the writ petition and examine the first and third contentions. If, indeed, the petitioner was aggrieved by the order of the tribunal dated 23rd August, 2018, he should have immediately approached the writ Court, as referred to above. However, having taken advantage of a part of the order dated 23rd August, 2018, the petitioner cannot be heard to complain that the tribunal was in</p>	

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	<p>error in not accepting his first and third contentions. Although the Laws of Limitation do not apply to writ proceedings, it is well settled that the writ Court has to be approached with utmost expedition and at any rate, within a reasonable period of accrual of the cause of action. The cause of action having arisen in August, 2018 and the writ petition having been filed more than eight months thereafter, the delay and laches in moving this Court are considered to be relevant factors standing in the way of the petitioner for grant of relief.</p> <p>The writ petition stands dismissed. There shall be no order as to costs.</p> <p>This order shall, however, not prevent the petitioner from approaching the concerned authority with relevant documents in support of the illness of the petitioner's wife and if such an approach is made, we hope and trust that the same shall be disposed of in accordance with law."</p> <p>Thereafter, pursuant to the liberty granted by the High Court, the applicant had filed an application on 29th July, 2019 before the Additional Director General & Inspector General of Police, Telecommunication, West</p>	

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	<p>Bengal, Kolkata, which was disposed of by an order, the relevant portion of which is as under:</p> <p style="padding-left: 40px;">“.....Please inform Shri Dhiman Biswas, Inspector (Telecom), Barasat Police District that his prayer dated 29/07/2019 to continue at Barasat Telecom Station, Barasat Police District is “REGRETTED” after careful consideration(.) He should join his new place of posting immediately(.) For information and necessary action(.)”</p> <p>It is submitted by Mr. K. Bhattacharya, learned advocate for the applicant that as evidently the order is cryptic it may be quashed. In support of his submission he has referred to the order passed by the Hon’ble Supreme Court in Ram Phal Versus State of Haryana : (2009) 3 SCC 258.</p> <p>Mr. M.N. Ray, learned advocate appearing on behalf of the respondent no.3 submits that earlier the applicant had filed an Original Application, being O.A. 605 of 2018: Dhiman Biswas Vs. The State of West Bengal & Ors., challenging his order of transfer dated 24th July, 2018 from Barasat P.D. to Diamond Harbour, which was disposed of by the Tribunal on 23rd August, 2018 by directing the authorities to keep the order in abeyance till the completion of Higher Secondary Examinations of the</p>	

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	<p>son of the applicant in 2019 and also it was directed once the examination was over, he should join the transferred place of posting. The relevant portion of the said order is as follows:</p> <p style="text-align: center;">“Since his son is going to appear in the Higher Secondary Examinations in the year 2019, considering that fact, this application is disposed of by directing the Additional Director General (L & O) & holding additional charge of IGP(HQ), West Bengal, - the Respondent No. 3 to keep this order of transfer of the applicant from Barasat Police District to Diamond Harbour Police District in abeyance till the completion of Higher Secondary Examinations of the son of the applicant in the year 2019.</p> <p style="text-align: center;">It is made clear that once the examinations of the son are over, the applicant shall immediately join the duty at the transferred place.”</p> <p style="text-align: center;">Submission is challenging the order, the applicant had moved the High Court. As noted, the said writ petition was dismissed on 8th July, 2019 and though liberty granted to the applicant to approach the concerned</p>	

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	<p>authority and file representation with relevant documents in support of the illness of the petitioner's wife for consideration of the authorities, since the applicant has accepted the order of the Tribunal and did not join the transferred place of posting and as the authority has to run the administration, no order may be passed.</p> <p>Heard learned advocates for the parties. It appears that earlier the applicant had moved the Tribunal challenging the order of transfer dated 24th July, 2018 from Barasat P.D. to Diamond Harbour, which was disposed of by the Tribunal on 23rd August 2018, by directing the authorities to keep the order in abeyance till the completion of Higher Secondary Examinations of 2019 of the son of the applicant and directing the applicant to join immediately after examination of the son was over. Challenging the said order the applicant had filed a writ petition, being W.P.S.T. No. 62 of 2019, which was disposed of by passing order dated 8th July, 2019.</p> <p>It is true that the respondent authorities after consideration of the documents had "regretted" the prayer of the applicant and had directed him to join the place of posting immediately and no reason has been given with regard to the rejection of such order. However, keeping in mind the order passed on 24th July, 2018 by the Tribunal</p>	

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SCN	<p>which has not been interfered with by the High Court and since the applicant had accepted the order of the Tribunal that he should immediately join his transferred place of posting, this application is disposed of by setting aside the order, appearing at page 76 of the application, and by directing the respondents to consider the matter afresh and shall pass an order after giving an opportunity of hearing. However, since the applicant had accepted the order passed by the Tribunal that he would immediately join the transferred place of posting, we are not inclined to interfere with the order of transfer. However, the authority shall grant leave to the applicant for appearing at the hearing.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	