

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das

Case No – **OA 1300 OF 2015**

Niranjan Sarkar 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
16 11.02.2020	<p>For the Applicant : Mr. A.K. Niyogi, Learned Advocate.</p> <p>For the Respondent : Mr. D. Kole, Mrs. S. Das, Learned Advocates.</p> <p>The applicant has prayed for direction upon the respondents for granting him increment with effect from the year 2004 till the date of his reinstatement in service and refixation of pay scale of the applicant in terms of West Bengal Services (Revision of Pay and Allowances) Rules, 2009 (in short, the ROPA Rules, 2009) and other consequential reliefs.</p> <p>The applicant joined in the Government service as Constable of Police and he retired from the establishment of the Commissioner of Police, Barrackpore Police Commissionerate on October 31, 2017. A departmental proceeding was started against the applicant on the allegation of committing misconduct by contracting second marriage during the existence of marital relationship with the first wife. The charge framed against the applicant was proved in the departmental enquiry and the Disciplinary Authority imposed the punishment of dismissal of the applicant from service which was affirmed by the Appellate Authority in due course. He approached this Tribunal by filing OA-620/2005, wherein he challenged the order of dismissal from service imposed by the Disciplinary Authority and affirmed by the Appellate Authority. On November 3, 2009, this Tribunal disposed</p>	

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of OA-620/2005 by setting aside the order of dismissal of the applicant and by giving direction to the Disciplinary to impose any punishment on the applicant, save and except punishment of removal or dismissal from service. The Tribunal also gave direction to the Disciplinary Authority of the applicant to reinstate him in service, but made specific observation in the order that he will not get any back salary during the period from the date of dismissal from service till the date of reinstatement in service. The said order of the Tribunal passed in OA-620/2005 was affirmed by the Division Bench of the Hon'ble High Court on February 2, 2010 passed in WPST 15/2010.

The then Disciplinary Authority of the applicant passed an order on May 31, 2010 in pursuance of the direction given by the Tribunal and affirmed by the Hon'ble High Court, whereby the applicant was reinstated in service with effect from the date of joining i.e. June 14, 2010. The said Disciplinary Authority also imposed punishment of deprivation of approved service increment and treated the period from the date of his dismissal on July 16, 2004 till the date of his reinstatement on June 14, 2010 as Extra Ordinary Leave without pay. Subsequently, the applicant again challenged that order of the Disciplinary Authority dated May 31, 2010 before this Tribunal by filing OA-1438/2011 which was disposed by the Tribunal on April 18, 2012. In view of the order passed by the Tribunal in OA-1438/2011, the then Disciplinary Authority of the applicant modified the previous order dated May 31, 2010 by passing a separate reasoned order on July 31, 2012. By the said reasoned order dated July 31, 2012, the Disciplinary

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Authority imposed the punishment of reduction of pay of the applicant to the minimum of pay scale of the Constable of Police with effect from the date of his reinstatement in service on July 14, 2010. By the said modified reasoned order, the Disciplinary Authority specifically observed that the period between dismissal of the applicant on July 16, 2004 and the date of his reinstatement in service on June 14, 2010 will be treated as Extra Ordinary Leave without pay, but the said period will be taken into consideration as past service for the purpose of giving retirement benefits except salary for the said period.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the then Disciplinary Authority of the applicant passed the last reasoned order on July 31, 2012 in terms of the direction given by the Tribunal. We do not find any illegality or arbitrariness in the said reasoned order dated July 31, 2012. So, the applicant is not entitled to get any salary or any annual increment during the period from the date of his dismissal from service till the date of his reinstatement in service. Nor can we persuade ourselves to hold that the applicant is entitled to get any benefit of Career Advancement Scheme on consideration of the fact of imposition of punishment for the misconduct committed by him while he was in service.

In view of our above findings, the original application is **dismissed.**

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)

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