

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

Case No – **OA 375 OF 2004**

**Partha 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
<p style="text-align: center;">33 <hr/>05.06.2018</p>	<p><b>For the Applicant</b> : Mr. Nemai Chand Samanta, Learned Advocate.</p> <p><b>For the Respondents</b> : Mr. Manujendra Narayan Roy, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to give appointment to the applicant in the post of Constable of Kolkata Police on the basis of selection process initiated in the year 2000.</p> <p>The applicant participated in the selection process for recruitment to the post of Constable of Kolkata Police when the name of the applicant was sponsored by the Employment Exchange in the year 2000. The contention of the applicant is that the applicant was qualified in physical measurement test and physical efficiency test and appeared in the interview on November 27, 2000. The further contention of the applicant is that the recruitment process started on the basis of the Notification which was issued without any authority of law and as such the applicant is eligible to be selected without participating in the interview held on November 27, 2000.</p> <p>Having heard Learned Counsel representing both parties, we are of the view that the issue whether the</p>	

# ORDER SHEET

**Partha Sarkar**

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 375 OF 2004**

applicant can challenge the selection process has already been covered by the decision of the Hon'ble High Court and the decision of the Hon'ble Supreme Court of India. The bunch of disgruntled candidates, who participated in the selection process for recruitment to the post of Constable in Kolkata Police, filed several original applications before this Tribunal and the order passed by the Tribunal was ultimately challenged before the Hon'ble High Court. On September 6, 2012, the Division Bench of the Hon'ble High Court has dealt with all the issues involved in connection with the said selection process in the case of "Surajit Das v State of West Bengal & Others" (WPST 2019 of 2008 and several other matters including WPST 206 of 2012). The Division Bench has categorically laid down that the candidates who participated in the said selection process for recruitment to the post of Constable of Kolkata Police can challenge the said selection process by approaching the Tribunal within a period of 2 (two) years from the date of selection and in that case the delay will be condoned and the applications will be considered on merit. It is relevant to quote the following paragraph from the order dated September 6, 2012 passed by the Division Bench in "Surajit Das v State of West Bengal & Others" (Supra) which is as follows :

**"We have noticed that the Division Bench while deciding the case of**

# ORDER SHEET

**Partha Sarkar**

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 375 OF 2004**

**Badiuzzaman (supra) and other connected matters has condoned the delay in filing applications before the Tribunal where the delay was of two years. No relief has been granted where the applicant approached the Tribunal two years after the Selections were held. The Supreme Court has approved of this approach of the Division Bench.”**

The order passed by the Division Bench of the Hon'ble High Court on September 6, 2012 in case of "Surajit Das v State of West Bengal & Others" was challenged before the Hon'ble Supreme Court of India by filing SLP(C) No. 19620 of 2013 which was disposed of along with other SLPs on July 8, 2013. It appears from order passed by the Hon'ble Supreme Court of India on July 8, 2013 that the said SLPs were dismissed. Accordingly, the applicant has the right to challenge the selection process within a period of 2 (two) years from the date of selection, in default, the delay in challenging the selection process will be fatal. In the instant case, the selection process by way of interview took place on November 27, 2000 and the applicant approached the Tribunal by filing original application on March 17, 2004. By way of mathematical calculation, we find that the applicant approached the Tribunal after 3 years and 3 months from the date of selection for challenging the said selection process for appointment to the post of

# ORDER SHEET

**Partha Sarkar**

Form No. ....

**Vs.**

**The State of West Bengal & Ors.**

Case No. **OA 375 OF 2004**

Constable of Kolkata Police. In view of the proposition of law laid down by the Division Bench of the Hon'ble High Court in the case of "Surajit Das v State of West Bengal & Others" (supra) and affirmed by the Hon'ble Supreme Court of India, we are unable to entertain the present application for challenging the selection process long after lapse of 2 (two) years from the date of selection. The original application is, thus, **dismissed**.

Let a plain copy of this order be supplied to both the parties.

**( S.K. DAS )**  
MEMBER(A)

**( R. K. BAG )**  
MEMBER (J)

Sanjib