

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

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

Case No – **OA 703 OF 2017**

**Subir Kumar Hazra 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;"><b>03</b> <b>12.07.2018</b></p>	<p><b>For the Applicant</b> : Mr. Atanu Chakraborty, Learned Advocate.</p> <p><b>For the Respondents</b> : None.</p> <p>The applicant has prayed for direction upon the respondents to give higher scale of pay to the applicant for discharging additional duties as per provision of Rule 65 of West Bengal Service Rules, Part-I. The applicant has also prayed for compensation to the tune of Rs.1,00,000/- for the harassment suffered by the applicant for non-payment of additional remuneration to the applicant.</p> <p>It appears from the materials on record that the applicant was appointed in the post of Warden at Siliguri Youth Hostel temporarily on August 1, 1981. He was asked to perform additional duty of supervising sports coaching camp as NIS Coach in Tea Garden area from December 7, 1981. On our query, Learned Counsel for the applicant submits that the applicant has been transferred from Siliguri to Churulia Youth Hostel in the month of June 1997. The grievance of the applicant is that he has not been given additional remuneration for discharging additional duty as per provision of Rule 65 of West Bengal Service Rules, Part-I.</p> <p>It is relevant to point out that the applicant previously approached this Tribunal by filing OA-975 of 1997. On July 22, 2002, this Tribunal disposed of OA-</p>	

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975 of 1997 by rejecting claim of the applicant to receive additional remuneration as per provision of Rule 65 of West Bengal Service Rules, Part-I. Subsequently, the applicant approached the Hon'ble High Court at Calcutta by filing WPST 1221 of 2002 which was disposed of on November 27, 2007. The Hon'ble High Court gave direction to the respondent no. 2 of the writ petition to consider the representation of the applicant in accordance with the provisions of Rule 65 of West Bengal Service Rules, Part-I with regard to entitlement of the applicant to receive additional remuneration by passing a reasoned order. On March 28, 2008, the Director of Youth Services, West Bengal passed a reasoned order in compliance with the direction given by the Hon'ble High Court. It appears from the said reasoned order that the Director of Youth Services, West Bengal decided to forward the representation of the applicant dated June 24, 1997 to the Finance Department for consideration and necessary action. Without approaching the Hon'ble High Court for violation of the order passed by the Hon'ble High Court, the applicant again approached the Tribunal by filing OA-1321 of 2015 which was again disposed of on June 15, 2016. By the said order dated June 15, 2016, this Tribunal gave direction to the Finance Department to pass an order in accordance with the direction given by the Hon'ble High Court at Calcutta in WPST 1221 of 2002 within a period of 10 (ten) weeks from the date of communication of the order to the Director of Youth

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Services, West Bengal. Without filing any contempt application for violation of the said order dated June 15, 2016 passed in OA-1321 of 2015, the applicant has again approached this Tribunal by filing the present application wherein the applicant has prayed for direction upon the respondents to give the applicant higher scale of pay for discharging duties of additional post in accordance with provision of Rule 65 of West Bengal Service Rules, Part-I.

None appears on behalf of the state respondents.

On consideration of submission made on behalf of the applicant, we find that the applicant worked as Warden, Siliguri Youth Hostel from August 1, 1981 till June 24, 1997 when the applicant was released from the said post in order to join his new assignment at Churulia Youth Hostel in the district of Burdwan. The contention of the applicant is that he was asked to discharge additional duty of NIS Coach in Tea Garden area from December 7, 1981 during his tenure of service at Siliguri. The claim of the applicant is for additional remuneration for discharge of additional duty while he was working at Siliguri as per provision of Rule 65 of West Bengal Service Rules, Part-I. Since the claim of the applicant for additional remuneration has already been considered and decided on merit by this Tribunal in OA-1321 of 2015, the applicant cannot be permitted to agitate the same issue before the Tribunal in the present application. The issue of payment of additional remuneration to the applicant as

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per provisions of Rule 65 of WBSR, Part-I is clearly barred by principle of res judicata.

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

The urgent xerox certified copy of this order be supplied to the parties on priority basis, if applied for, on completion of all legal formalities.

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

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

Sanjib