

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson and Member (J).**

**Case No. MA – 76 of 2022 & MA – 77 of 2022 (OA – 291 of 2017)  
Tarak Das - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. S. Maity, Advocate
<u>4</u> 09.11.2022	For the State Respondent No. 3 & 4	: Mrs. S. Agarwal, Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536 – WBAT / 2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant M.A. has been filed for recalling of the order dated 17.09.2018, whereby the O.A. was dismissed for default. However, the applicant was not aware of such dismissal though he contacted with the then advocate on record. Subsequently, the said advocate on record died in the year 2021 and after great persuasion he was able to find out that the O.A. was dismissed for default. Therefore, there are some delay in filing the restoration petition. As per the counsel for the applicant, since it is a case of dismissal, unless and until the O.A. would be restored, the applicant would suffer irreparable loss and injuries with no fault of him.

However, the counsel for the respondent has vehemently objected about the maintainability of the instant application as the impugned dismissal order was passed on 27.05.2015 and the applicant has filed the instant O.A. in the year 2017 only without availing the alternative remedy of preferring departmental appeal.

Heard both the parties and perused the records. As it is a case of dismissal

**ORDER SHEET**

Form No.

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**THE STATE OF WEST BENGAL & ORS.**

and the applicant was not aware of the dismissal of the O.A., therefore, the order dated 17.09.2018 is recalled and O.A. is restored keeping the maintainability point open. The applicant is directed to satisfy the maintainability point by the next date. Accordingly, both the M.A.s are allowed.

Let the O.A. be listed on 19.12.2022 under the heading 'Admission Hearing'.

**URMITA DATTA (SEN)**  
**Officiating Chairperson and Member (J)**

A.K.P.