

ORDER SHEET

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 93 of 2022, MA 94 of 2022 and OA 335 of 2021
Uttam Kumar Biswas. - Versus - The State of West Bengal & Others.**

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|---------------------------------|---------------------------|-----------------------------------------------------|
| Serial No. and Date of order | For the Applicant | : Mr. A. K. Niyogi, Advocate. |
| <u>11</u> 23.09.2022. | For the State Respondents | : Mr. G. P. Banerjee, Mr. D. Kole, Advocates. |

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

OA-335 of 2021

The instant Original Application has been filed challenging the impugned dismissal order dated 19.07.2016(Annexure-‘B’).

MA-93 of 2022

The MA-93 of 2022 has been filed to treat the averments made in the said Miscellaneous Application as part of the Original Application.

MA-94 of 2022

The MA-94 of 2022 has been filed praying for condonation of delay of 1065 days to file the Original Application.

As per the applicant, the charge was framed on 22.12.2016, whereas the Verification Roll (VR) was filed on 25.01.2016. As per the applicant, he was appointed vide order dated 12.02.2016 (Annexure-‘A’ of the Original Application). However, vide order dated 19.07.2016 (Annexure-‘B’ of the Original Application), he was dismissed from service with immediate effect on account of adverse Verification Roll report. However, as per the applicant, subsequently he made a representation for consideration of his rejection and was in constant touch with the office of the correctional home from 17.04.2020 and

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thereafter, from March, 2020 due to Covid situation, he could not approach the Tribunal. Therefore, he has prayed for condonation of delay in filing the instant Original Application.

However, the counsel for the respondents has vehemently objected to allow the Original Application not only on the ground of limitation but also on merit as the applicant had intentionally with full knowledge had submitted a false declaration in his Verification Roll. However, no cogent reason has been shown for long delay of five years as he was dismissed in the year 2016 and the Covid situation starts from 22.03.2020. Therefore, they have vehemently objected to allow the Miscellaneous Application as well as admit the Original Application.

Having heard the parties and perused the record, as the MA-93 of 2022 has been filed to treat the submission as part of pleadings in the Original Application, therefore, the said Miscellaneous Application has been heard along with MA-94 of 2022 and the instant OA-335 of 2021. It has been noted that the applicant was initially appointed vide Order dated 12.02.2016, wherein in Clause 2 of the said appointment letter, following has been specifically stipulated:-

“..... 2) The appointment shall be provisional subject to receipt of satisfactory P.V.R and Medical Examination report from the respective department in respect of the candidate within a reasonable time failing which his service will be terminated without any further reference to him. His appointment will be terminated without any notice also in case of adverse PVR and/or Medical fitness report.”

Further, on the perusal of the Verification Roll submitted by

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the applicant as enclosed in the supplementary affidavit. It is noted that the said Verification Roll was submitted on 25.01.2016, wherein against the para 13 of the said Verification Roll, the applicant had mentioned as follows:-

“

13. Have you ever been convicted by a Court of any offence or charge-sheeted by the police in connection with any criminal proceeding? If so, the full particular of the case should be given.

N.A, NO

.....”

During the course of the hearing, the counsel for the applicant has drawn my attention to the judgement dated 16.03.2017 passed in $\frac{GR\ No.841/14}{TR\ No.751/15}$ (Page-20 of the Original Application, Annexure-‘C’) and submitted that he has been acquitted from the criminal charges by the said order. However, from perusal of the Memo. dated 04.07.2016, whereby the Deputy Inspector General of Police, Intelligence Branch, West Bengal has communicated that one Charge Sheet No. 329/14 was submitted on 08.08.2014 against the applicant in Dhantala P.S. case no. 138/14 dated 16.04.2014.

From the perusal of the above, it is crystal clear that the applicant was appointed provisionally vide order dated 12.02.2016 with a clear stipulation that his appointment is provisional subject to receipt of satisfactory P.V.R. and Medical Examination report from the respective department. From the perusal of his VR, which was submitted on 25.01.2016, it is noted that the applicant had specifically mentioned against the query whether any charge sheet has been submitted in any criminal case or not with a negative answer whereas admittedly on 08.08.2014 charge sheet was submitted by the police authority with regard to Dhantala P.S. case no. 138/14 dated 16.04.2014, which was

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converted to GS case no., therefore, obviously when the applicant had given a false declaration in the VR, which subsequently was found out by given report on VR. Therefore, the respondent authority had terminated from service as per the appointment letter.

In this background, the applicant had approached this Tribunal in 2022, whereas he was terminated in the year 2016 for gives a false declaration in his VR and no cogent reasons has been shown except that he was in touch with the department for this long period. It is settled principal of law and as per the provision of the Administrative Tribunal Act, 1985, if the Court would be satisfied that there is substantial merit in the case and cogent reasons has been shown for any delay to approach the Court, it can condone the said delay.

However, in the instant case, it is on the face of the record that the applicant with full knowledge declared that no charge was submitted against him. Moreover, from 2016 to March, 2020, he did not take any steps except getting in touch with the department. Therefore, I do not find any reasons to condone the delay and there is not even any arguable case on merit and no cogent reasons has been shown for such long delay in filing the instant application. Accordingly, OA and both the MA are dismissed.

With above observation no order as to cost.

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

S.M.