

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 529 of 2022

Samir Karati -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy, Ld. Advocate.

For the State respondent : Mr G.P. Banerjee, Ld. Advocate.

05
17.05.2023

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Learned counsels have pointed out that in the order dated 20.04.2023, in the 1st page at 16th line and in the 2nd page at 3rd & 4th line, the numbers “88th” has been wrongly mentioned; the correct number is “80th”. Let these two corrections be done and let this order be part of the original order dated 20.04.2023.

The prayer in this application is for a direction to the respondent authority to promote the applicant to the post of ASI (UB) with effect from the date when his batch mate of 62nd batch passed the examination for promotion to the post of ASI (UB). His other prayers include clarification of the reinstatement order passed by the D.C. H.Q. order No. 1210 dated 24.12.2004, re-fix his seniority among his batch mates of 62nd batch and the discharge period from 14.09.1999 to 24.12.2004 be treated as on duty or leave and not as “Dies-Non”.

It appears that by an order of the High Court, the applicant, discharged from service as a Constable, was reinstated by way of a reasoned order which also allowed the applicant to complete his training now with the 80th batch. In the reasoned order, it was also made clear that the period of discharge during 14.09.1999 to his date of joining after reinstatement will be treated as “Dies-Non”.

Submission of Mr. M.N. Roy, learned counsel on behalf of the applicant is that since the applicant belonged to the 62nd batch, therefore, his seniority should also be amongst his batch mates of the 62nd batch.

Mr. G.P. Banerjee, learned counsel on behalf of the respondents, however, argues that the reasoned order passed is very clear treating the period of discharge as “Dies-Non”. Therefore, his reinstatement and rejoining the training period have to be with the 80th batch. Since after reinstatement, he rejoined and completed the training along with the batch mates of 80th batch, the question of

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reverting him to a seniority of 62nd batch does not arise. It is also submitted that the reinstatement order passed by the respondent on 24.12.2004 was never challenged in this Tribunal before, thus it is barred by limitation for seeking remedy after a lapse of good 18 years.

After hearing the submissions of the learned counsels, the Tribunal has observed the following :

- i. In the reinstatement order passed by the respondent authority, the period of his discharge from service from 14.09.1999 till his joining after reinstatement has been treated as "*dies-non*".
- ii. Although he belonged to the 62nd batch but due to punishment of discharge imposed on him, he could not complete the training with the 62nd batch.
- iii. Later after being reinstated, he joined the training with the 80th batch and subsequently completed his training and joined the regular service as Constable with Kolkata Police Force.

In view of the above observations, the Tribunal finds that his training period was completed with the 80th batch and after completion he joined the regular service along with other batchmates of the 80th batch . Therefore, the question of reverting to the 62nd batch and thus, being promoted to the post of ASI (UB) is not valid. Moreover, the order of reinstatement has made it clear that the period from 14.09.1999 till his rejoining is to be treated as "*dies-non*". Further, such order of the reinstatement in which the period of his discharge has been declared as "*dies-non*" was never challenged by the applicant till now, even after a lapse of 18 years.

In view of above observations, the Tribunal finds no merit in the application and, therefore, this application is **disposed of** without passing any order.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)