

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 529 OF 2022

SAMIR KARATI - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. M.N. Roy,
and Advocate
Date of For the State Respondents : Mr. Gautam Pathak Banerjee,
order Advocate
4
20.04.2023

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 parties, the case is taken up for consideration sitting singly.

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 88th 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,

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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 88th batch. Since after reinstatement, he rejoined and completed the training along with the batch mates of 88th batch, the question of 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.

Let the matter appear under the heading "For Orders" on 17.05.2023.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.