

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 822 of 2023.

SRI NABA KUMAR GHOSH - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

02  
20.6.2024

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

For the State Respondents : Mr. R.K. Mondal,  
Learned Advocate.

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed in this application for a direction to the respondent authorities to condone the deficiency of one year seven months and twelve days in the qualifying service of the applicant for the purpose of granting regular pension and other retiral benefits. The case in short is that the applicant, who had participated in the selection process for the recruitment of the post of Staff Car Driver was provisionally selected for such post and a provisional appointment letter was issued to him on 06.6.2002. As per regular practice, soon after such provisional letter was given, the applicant was asked to complete his medical examination and submit his Police Verification Roll. The applicant duly complied with these two requirements. Further, the applicant was also directed to undergo a fifteen day training in elementary fire fighting from 24.6.2002 to 12.7.2002. The applicant duly participated in this course. However, after completion of these formalities, the final appointment letter was not issued to him by the respondent authority. Surprised and worried, the applicant was compelled to approach this Tribunal by filing an application being OA 9665 of 2008. The Tribunal directed the Director General, Fire and Emergency Services to consider the application and pass a reasoned and speaking order. By such direction, the Director General passed the reasoned order on 23.2.2010 in which he stated that a proposal for appointment of this applicant along with two other selected candidates to the post of Staff Car Driver have been moved before the

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Department of Fire and Emergency Services. Since the Department had not considered and no appointment letter was being issued, the applicant filed another application in this Tribunal, being OA 575 of 2010. After hearing the application, the Tribunal directed the Director General to expedite the approval of the Department for appointment to the applicant. Finally, this matter was exhausted by another application preferred by the applicant in OA 840 of 2011. By order dated 04.9.2012, the Tribunal directed the Secretary of the Department *“to keep the panel concerned alive and to arrange to appoint the petitioner (s) against the 3 vacant posts of Staff Car Driver....”*.

In terms of such clear direction, the Department through Director General, Fire and Emergency Services issued the appointment letter dated 26.9.2014, appointing this applicant in the post of Staff Car Driver. The applicant joined the post on 10.10.2014 and within less than ten years i.e. on 28.02.2023, he superannuated after attaining the age of sixty years.

Now the issue being agitated by Mr. Roy, learned counsel appearing on behalf of the applicant is that due to wilful latches on part of the respondent authorities, his appointment letter due to be issued to him after the provisional appointment letter was issued and the training was successfully concluded, the final appointment letter was delayed. According to Mr. Roy, such final appointment letter should have been issued to him soon after completion of the training on 12.07.2002. Mr. Roy further submits that his medical examination report was positive and there was nothing adverse against him relating to his antecedents as verified by the Police Roll. Therefore, it is not understood for what reason, the applicant was not given the final appointment letter.

An observation of the Learned Member of this Tribunal in OA 840 of 2011 in its order dated 04.9.2012 makes it clear that the applicant was sixth in the panel of ten appointees. Mr. Roy submits that despite being in the rank of six and without any adverse report against him, though he was not selected, but others who were below him were offered such appointment letters then. Attention is also drawn to the findings of this Tribunal in OA 840 of 2011, the relevant portion of which is as under

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*“.....On hearing both the sides, we find the undisputed position that the right for getting appointment by the petitioners according to the panel of 2001 is undisputed and it has been confirmed both by the Directorate as well as by the Department...”*

Mr. Roy, learned counsel for the applicant has presented a copy of judgement of Hon'ble High Court, Calcutta passed in W.P.S.T. 112 of 2019 (Asim Kumar Chakrabarti –v-The State of West Bengal & Ors).

Having gone through the records in this application, it is the direction of this Tribunal to the respondent no. 1 – the Additional Chief Secretary, Department of Fire and Emergency Services to examine the matter in its entirety and a reply be filed, specifically covering the point as to why despite being provisionally selected on 06.06.2002 and having completed his required training on 12.07.2002 his prayer in this application for condonation of deficiency in the qualifying service for the purpose of granting regular pension cannot be accepted. Let such reply be filed by the next date and copy be served upon the other side and rejoinder, if so wished, by the next date.

Let the matter appear under the heading “Reply/ Rejoinder” on 07.8.2024.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Sk.

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