

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

The Hon'ble Mr. P. Ramesh Kumar, Member (A)

Case No –MA-145 of 2019 (OA-1109 of 2017).**Kamal Bauri. Vs The State of West Bengal & Others.**

Serial No. and Date of order.1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p style="text-align: center;">03</p> <p>-----</p> <p>30-08-2019</p>	<p>For the Applicant : Mrs.S. Mitra, Advocate.</p> <p>For the State Respondents : Mr. M. N. Roy, Advocate.</p> <p style="text-align: center;">Affidavit of service has been filed be kept on record.</p> <p style="text-align: center;">The instant application has been filed mainly challenging the impugned order dated 24-06-2015 passed by the Commandant, SAP, 7th Battalion, Kalyanpur, Asansol-4. As per the applicant, he was served with a charge sheet dated 21-08-1999 by the authority for unauthorised absence of 315 days and ultimately dismissed from the service vide order dated 19-09-2001 against which he filed an OA No. 294 of 2003. However the said OA was dismissed vide order dated 15-07-2009. Being aggrieved with, he preferred one W.P.S.T. No. 670 of 2009, which was also dismissed vide judgement dated 17-06-2011, against which he</p>	

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	<p>had preferred an appeal before the Hon'ble Apex Court, which was also dismissed vide order dated 26-08-2013 holding inter alia :-</p> <p style="text-align: center;">“We are not inclined to accede to the request made by Learned counsel for the petitioner that the order of punishment of dismissal be converted into the order of compulsory retirement. Hence, the special leave petition is dismissed.</p> <p style="text-align: center;">However, the petitioner may prefer a representation to the authority which may be considered by the authority sympathetically in accordance with law.”</p> <p>Thereafter as per the leave granted by the Hon'ble Apex Court CC No. 14823/2013, the applicant preferred a representation dated 17-12-2013 (Annexure-A/3) before the authority</p>	

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	<p>which has been turned down by the impugned order dated 24-06-2015. Being aggrieved with, he has filed the instant application. The applicant has also filed one MA for condonation of delay wherein he has submitted that due to financial crisis he could not approached this Tribunal. Therefore the delay may be condoned.</p> <p>The Counsel for the respondent has vehemently objected to the contention of the applicant. The Counsel for the respondent has also submitted that the applicant was dismissed for unauthorised absence against which he approached this Tribunal. However the Tribunal heard both sides on merit and did not allowed his application. Thereafter the Hon'ble High Court as well as Hon'ble Apex Court did not find any merit to entertain his application and ultimately Hon'ble Apex Court had dismissed his petition. However the applicant preferred an application before the authority as per the leave of the Hon'ble Apex Court, the authority did not find any reason to alter their views as the applicant was</p>	

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	<p>unauthorised absentee in a disciplined force. Therefore the Counsel for the respondent has submitted that there is no valid reason to approach this Tribunal after 4(four) years. Therefore the MA should not be allowed.</p> <p>We have heard both the parties and perused the records. It is noted that though the applicant approached this Tribunal earlier against his dismissal for unauthorised absence. However this Tribunal did not find any merit of his submission in this regard and ultimately dismissed the OA which was subsequently affirmed by the Hon'ble High Court as well as Hon'ble Apex Court. Therefore this is no scope for us to consider the case on merit as it has already been considered and reflected by the appropriate forums. It is further noted that the Hon'ble Apex Court had only given an opportunity to the applicant to prefer a representation before the authority. So that the authority after exercising their discretionary power may have alter their views. But in the instant case, the authority does not find any</p>	

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Mihir	<p>reason to alter their views. In the above scenario, we do not find any reason to interfere with the decision of the authority and that too on an application, which has been filed after 4(four) years without any cogent reason as the issue of dismissal has already been adjudicated and attained finality.</p> <p>Accordingly, the MA and OA are dismissed being devoid of merit.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	