

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-174 of 2018(OA-521 of 2018).Goutam Majumder. 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>02</p> <p>-----</p> <p>01-02-2019</p>	<p>For the Applicant : Mr. S. K. Mitra, Advocate.</p> <p>For the State Respondents : Mr. S. N. Roy, Advocate.</p> <p>The instant application has been filed praying for recalling of the order dated 09-10-2018, whereby this Tribunal had disposed of the original application on the ground of being infructuous as per submission made by the Counsel for the respondent. However the Counsel for the applicant could not be present on that date due to his illness. Therefore the order dated 09-10-2018 was passed expertly solely on the basis of the submission made by the respondent. According to the Counsel for the applicant, he has filed the original application and he has prayed for the following reliefs :-</p> <p>a) An order thereby quashing and/or setting aside the impugned order dated 14-01-2016 communicated to the applicant by the Joint Commissioner of Excise, Barrackpore Excise Division, the Respondent No. 5 herein thereby terminating the Applicant from service with immediate effect (Annexure P/12)</p>	

ORDER SHEETGoutamMajumder.
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	<p>b) An order so as to command and direct the Respondents and each of them by themselves and also through their servants, subordinates, agents and/or assigns to reinstate the Applicant as Excise Constable immediately with all consequential benefits.</p> <p>c) An order so as to command and direct the Respondents and each of them by themselves and also through their servants, subordinates, agents and/or assigns to pay all arrears of salary and other emoluments with interest which the Applicant would have received had the Applicant not been terminated illegally.</p> <p>d) An order so as to command and direct the Respondents and each of them by themselves and also through heir servants, subordinates, agents and/or assigns to give continuity of service.</p> <p>e) An order so as to command and direct the Respondents and each of them by themselves and also through heir servants, subordinates, agents and/or assigns to certify and transmit</p>	

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	<p>before this Hon'ble Tribunal all the records connected with the matter and to show the reasons for such enormous delay in taking decision so that conscionable justice can be done by this Hon'ble Tribunal.</p> <p>f) An order of costs of and/or incidental to this application.</p> <p>g) Any further or other order or orders as to your Lordships may deem fit and proper.</p> <p>Therefore though the applicant was reappointed during the pendency of the OA but he is having other relief also. Therefore he is not pressing prayer 'A' as prayer 'A' has become infructuous in view of the reappointment of the applicant. However, if the order dated 09-10-2018 would not recall, the applicant will suffer irreparable losses and injuries. As per the Counsel for the applicant, applicant should not suffer due to the absence of the Counsel. Since he was not present on that date and he could not make appropriate submission. Therefore he has prayed for recalling of the order dated 09-10-2018. The Counsel for the respondent has raised the objection for recalling of the order as the OA has become infructuous and the applicant has been reappointed by the respondent.</p>	

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Mihir	<p>We have heard both the parties and perused the records. It is noted that on the basis of the order dated 09-10-2018, the Counsel for the applicant was not present and on the basis of the verbal submission of the respondent, we disposed of the OA being infructuous as the termination order was recalled and the applicant was reappointed. However other prayers were not considered.</p> <p>In view of the above, for ends of justice the order dated 09-10-2018 is recalled and the OA is restored to its original position. However as the Counsel for the applicant has submitted that he is not pressing prayer 'A', respondents are directed to file reply with regard to the other prayers. Accordingly, MA is disposed of. Let the OA be listed on 01-04-2019 for reply by 4(four) weeks and rejoinder by 2(two) weeks with regard to the other prayer.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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