

**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 – OA- 171 of 2019.****Samir Kumar Saha. 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
02 <hr/> 15/11/2019	<p>For the Applicant : Mr. M.N. Roy, Mr G. Halder, Mr. B. Nandy, Ld. Advocates.</p> <p>For the State Respondents: Mr. G.P. Banerjee, Ld. Advocate.</p> <p><i>The instant application has been filed praying for following reliefs;</i></p> <p><i>“ a) An order do issue setting thereby aside/quashing the impugned suspension order vide E.O.No.327/17 dated 09.06.2017 issued by the Director General, West Bengal Fire and Emergency Services.</i></p> <p><i>b) An order do issue directing thereby the concerned respondent authorities to immediately issue appropriate orders allowing thereby the applicant to resume his duties.</i></p> <p><i>c) An order do issue directing the respondent authorities to release the arrear salaries / subsistence allowance and all other admissible dues as your applicant is entitled to.</i></p> <p><i>d) Any other further order/orders, direction/directions as deemed fit and proper by this Hon'ble Tribunal to secure the ends of</i></p>	

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	<p><i>justice.”</i></p> <p><i>As per the applicant, he was falsely implicated with one criminal case being New Market P.S. Case No.225 of 2017 wherein he was arrested on 8.6.17. However, subsequently he was released on bail vide order dated 16.06.17 by Metropolitan Magistrate, Special Court Judge, Banksal Court, 4<sup>th</sup> Special Court, Bankshal Street. In the meantime, he was put under suspension vide order dated 9.6.17. However, after a lapse of more than one year neither his suspension has been reviewed nor the subsistence allowance has been enhanced. Even, till today no disciplinary proceeding has been initiated against him. Even he made representations before the authority on 07.02.18., 16.08.18 but no action has been taken. Therefore, he has prayed for quashing of the suspension order. During the course of hearing, he has drawn our attention to our order dated 01.10.19 passed in OA No.378 of 2019 in similarly circumstances cases and has prayed for extension of benefit of that order.</i></p> <p><i>The counsel for the respondent however, has submitted that since he was arrested in the criminal case, Therefore, he has been rightly put under</i></p>	

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GM	<p><i>suspension.</i></p> <p><i>We have heard both the parties and perused the records.</i></p> <p><i>It is noted that as per extent service rules, review has to be made after 90 days with regard to the substantive issue of suspension as well as subsistence allowance. However, it is observed that particularly, after passage of more than two years, no review has been made or subsistence allowance has been enhanced, which is contrary to their own rules. Moreover, the issue involved is also fairly covered by our order dated 01.10.19. Even no disciplinary proceeding has also been initiated against him till today. In view of the above, we have no alternative but to quash and set aside the order dated 09.06.2017 and direct the respondent to allow the petitioner to join. However, they will be at liberty to take appropriate steps as per rules, if so desires. Accordingly, the OA is disposed of with the above observation and direction with no order as to cost.</i></p> <p><b>P. RAMESH KUMAR MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN) MEMBER(J)</b></p>	