

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

The Hon'ble Justice Soumitra Pal, Chairman

OA-1317 of 2015

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

Tapas Kumar Sarkar

Vs.

The State of West Bengal & Ors.

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;">14 27.03.2019</p>	<p>For the petitioner : Mr. Indranil Roy, Mr. Sukdeb Sarkar, Learned Advocates.</p> <p>For the respondent : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p style="text-align: center;">In this application the applicant, a Group-A Officer (Regional Transport Officer), has challenged the impugned order dated 30th July, 2014 issued by the Joint Secretary to the Government of West Bengal, being Annexure-L to the application, on the ground that since his appointment was made by the Hon'ble Governor of West Bengal, he cannot be removed except by the sanction of the Governor and as the impugned order regarding submission of charge sheet shows that sanction of the State under Section 197(1) (b) of the Code of Criminal Procedure is absent and as under Section 3, sub section 60 (6)(c) of the General Clauses Act 1897, "State Government" means the "Governor", the impugned order, cannot be sustained.</p>	

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<p>14 27.03.2019</p> <p>Page /2</p>	<p>It is submitted by Mr. Gourav Halder, learned advocate on behalf of the State, on instruction, that going through the records it is evident that the impugned order is without the sanction of the Governor.</p> <p>It is submitted by the learned advocate for the applicant that though by order dated 25th September, 2018 the respondents were directed to produce the concerned departmental file it has not been sent and produced, which we find is correct.</p> <p>Therefore, as the applicant was appointed by the approval of the Governor and as the impugned order under the law should have contained the sanction of the Governor in view of the provisions contained in section 197 (1) (b) of the Code of Criminal Procedure and as under section 3 (60)(c) of the General Clauses Act, "State Government" means the Governor and as the sanction of the Governor is absent, the intimation dated 30th July, 2014 regarding submission of charge sheet against the applicant cannot be sustained and is thus set</p>	

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<p style="text-align: center;">14 ----- 27.03.2019</p> <p>SC</p>	<p>aside and quashed. The application is allowed. Since it is submitted by the applicant that during the pendency of the original application, the applicant had superannuated on 31st January, 2016, appropriate steps be taken for release of superannuation dues in accordance with law on compliance of formalities.</p> <p style="text-align: center;"> P. RAMESH KUMAR MEMBER (A) </p> <p style="text-align: center;"> SOUMITRA PAL CHAIRMAN </p>	

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