

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Present ---  
The Hon'ble  
&  
The Hon'ble

**Case No. O.A.-207 of 2015**  
**MANAS KR. MONDAL -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;">10 <hr/>12.02.2018</p>	<p><b>For the Applicant</b> : Mrs. S. Mitra, Learned Advocate.</p> <p><b>For the Respondents</b> : Mr. S.K. Mondal, Learned Advocate.</p> <p>The applicant has filed this application under section 19 of the Administrative Tribunals Act, 1985 praying for direction upon the respondent no. 3 to give appointment to the applicant in Group-D post.</p> <p>The applicant having requisite qualification for appointment to Group-D post, participated in the selection process and was selected for appointment in the Group-D post under Eastern Circle, Irrigation &amp; Waterways Directorate, Government of West Bengal. The fact of selection of the applicant was communicated by the respondent no. 3 under letter dated May 23, 2014. The contention of the applicant is that he was involved in a criminal case being GR No. 841 of 2011 under section 143/447/323/427/436/354 of IPC. The further contention of the applicant is that the charge has already been framed against the applicant by the concerned court but the trial of the case has not been concluded. The grievance of the applicant is that the</p>	

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appointment letter has not yet been issued in favour of the applicant in spite of intimation of his selection on May 23, 2014.

Relying on judgment of the Hon'ble Supreme Court in "Commissioner of Police v Sandeep Kumar" reported in 2013(4) CHN (SC) 143, Mrs. Mitra, Learned Counsel for the applicant submits that the applicant should have been communicated about the reasons for not issuing appointment letter, when the applicant filled up Police Verification Roll long back. On the other hand, Learned Counsel for the state respondents submits that the appointment letter has not been given as the criminal case is still pending against the applicant for adjudication before the court of law. On consideration of the decision of the Supreme Court in "Commissioner of Police v Sandeep Kumar" (Supra), we find that in the said reported case, the applicant was involved in a criminal case but the said criminal case was compromised and the applicant was acquitted of the charge. The issue for decision of the Hon'ble Supreme Court was supply of wrong information by the applicant in the form before issuance of appointment letter. The supply of wrong information about the arrest of the applicant in a criminal case was condoned by the Hon'ble Supreme Court. In the instant case, the applicant has not furnished any wrong information, but the criminal

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<p>Sanjib</p>	<p>case in which the applicant is involved is still pending for trial before the competent court of law. The charge against the applicant is that he is involved along with other co-accused persons in the offence of outraging modesty of woman. Accordingly, the facts of the present case are clearly distinguishable from the facts of the reported case and as such the ratio of the said reported case cannot be made applicable in the facts of the present case.</p> <p>Since the criminal case is still pending for trial and since the applicant is involved in the criminal case, we are of the view that the applicant should approach before the appointing authority if the applicant is acquitted of the charge by the competent court of law.</p> <p>The present application is premature and as such the application is dismissed.</p> <p>Plain copy to both parties.</p> <p><b>( S.K. DAS )</b> MEMBER(A)</p> <p><b>( R. K. BAG )</b> MEMBER (J)</p>	
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