

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag,
&
The Hon'ble Dr. Subesh Kumar Das

Case No. OA 220 of 2015

Ruplal Bhowmick

Versus

The State of West Bengal & Ors.

Serial No. and date of order	Order of the Tribunal with signature	Office action with date and dated signature of parties when necessary.
1	2	3
15 <u>23/04/2019</u>	<p>For the Applicant : Mr. A.K. Biswas, Mr. A. Biswas, Ld. Advocates.</p> <p>For the State Respondent : Mr. A.L. Basu, Ld. Advocate.</p> <p>The applicant has prayed for direction upon the respondents for regularization of absence of the applicant from duty during the period when he was released on May 30, 2013 till the date of resuming duty on February 14, 2014 and other ancillary reliefs.</p> <p>The applicant was working as G.D.A. attached to E.S.I. Hospital, Serampore in the district of Hooghly. On May 17, 2013 he was transferred from Serampore to Asansol in the interest of public service. He was released from the post of G.D.A. at Serampore by the Superintendent of E.S.I. Hospital, Serampore w.e.f. May 30, 2013. The applicant challenged the order of transfer and the order of release before this Tribunal by filing OA-748/2013. On July 26, 2013 the Tribunal disposed of OA-748/2013 by directing the state respondents to allow the applicant to continue in the post of G.D.A. in Serampore E.S.I. Hospital till vacancy arises in any other E.S.I. Hospital within the district of Hooghly. The Tribunal also directed the</p>	

ORDER SHEET – (Continuation)

Form No.

Ruplal Bhowmick
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 220 of 2015**

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>state respondents to regularise absence of the applicant from duty as a consequence of his release and recall of the order of transfer on the basis of an application to be filed by the applicant in accordance with the service rules by which the applicant is governed. Subsequently, on August 01, 2013, the applicant submitted an application through his Learned Advocate before all the state respondents for regularisation of his absence from duty. The order of transfer of the applicant was modified by issuance of fresh order of transfer on September 11, 2013 by which the applicant was directed to join his new assignment at Gourhati E.S.I. Hospital in the district of Hooghly. The applicant filed one contempt application being CCP-121/2013 on the ground of wilful violation of the order passed in OA-748/2013 by the state respondents. On February 10, 2014 the said contempt application was dropped on the ground that the order passed by the Tribunal has been complied with by the state respondents.</p> <p>With the above factual matrix, Mr. A.K. Biswas, Learned Counsel for the applicant contends that his prayer for regularisation of his absence submitted through his Learned Advocate on August 01, 2013 was not considered by the state respondents. He</p>	

ORDER SHEET – (Continuation)

Form No.

Ruplal Bhowmick
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 220 of 2015**

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>further submits that the applicant was not given any increment after joining his new assignment on November 14, 2014. On the other hand, Mr. A.L. Basu, Learned Counsel representing the state respondents submits that the applicant did not submit any application in terms of the provisions of service rules by which the applicant is governed for regularisation of his absence and as such the issue of grant of increment to the applicant after resuming duty could not be considered by the authority concerned.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the background of filing the present application, we find that the previous prayer of the applicant for regularisation of his absence from duty on the basis of application submitted by his Learned Advocate was the subject matter of the contempt application before the Tribunal in CCP-121/2013, but the Tribunal dropped the contempt proceeding being satisfied with the action taken by the state respondents. Since the applicant submitted previous application through his Learned Advocate on August 01, 2013 for regularisation of his absence from duty and since the said application cannot be construed to have been submitted in terms</p>	

ORDER SHEET – (Continuation)

Form No.

Ruplal Bhowmick
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 220 of 2015**

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>of provisions of service rules by which the applicant is governed and since the said issue has attained finality after disposal of the contempt application (CCP-121/2013) on February 10, 2014, we are constrained to hold that the applicant is estopped from renewing his prayer of consideration his previous application submitted through his Learned Advocate on August 01, 2013 for regularisation of his absence from duty.</p> <p>On consideration of the fact that the applicant was absent from duty during the period from May 31, 2013 to February 13, 2014, we are of the view that said period of absence of the applicant can be regularised by grant of any kind of leave to the credit of the applicant and if no leave is available to the credit of the applicant, then by grant of Extraordinary Leave, so that the applicant may not be deprived of the benefit of service. In view of our above findings, the respondent no. 2, Directorate of E.S.I. (MB) Scheme, Government of West Bengal is directed to take necessary action for regularisation of absence of the applicant during the period from May 31, 2013 to February 13, 2014 by grant of any kind of leave to the credit of the applicant and also by grant of Extraordinary Leave, if no other leave is available to the applicant, within a period of 12 (twelve) weeks</p>	

ORDER SHEET – (Continuation)

Form No.

Ruplal Bhowmick
.....

Vs

The State of West Bengal & Others.
.....Case No. **OA 220 of 2015**

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
Csm	<p>from the date of communication of the order and to take necessary follow up action within the period of next 08 (eight) weeks thereafter.</p> <p>With the above direction, the original application stands disposed of.</p> <p>Let a Plain Copy of the order be supplied to both the parties.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	