

**ORDER SHEET**  
**West Bengal Administrative Tribunal**

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

Case No. **OA - 247 of 2016**

*Bikash Ganguly*

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.

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09/10/2018

**For the Applicant** : *Mr. A.K. Das Sinha,*  
*Ld. Advocate.*

**For the State Respondent :** *Mr. S.K. Mondal,*  
*Ld. Advocate.*

*The applicant has prayed for direction upon the respondents to pay the applicant full salary of a constable by absorption of the applicant in the post of constable of Armed Police of West Bengal in terms of Regulation 782 and Regulation 746 of Police Regulation of Bengal, 1943.*

*The applicant was appointed as Boy Bugler in the year 1984 on the basis of compassionate appointment due to death of the father of the applicant while he was in service as Constable of Police. The contention of the applicant is that he was appointed as Boy Bugler as his age was about 15 years at the time of his compassionate appointment due to pre-mature death of his father. The further contention of the applicant is that he should have been absorbed as constable on full salary on attaining age of 18 years in terms of Regulation 782 and Regulation 746 of Police Regulation of Bengal. It is also contended on behalf of the applicant that the*

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	<p><i>applicant is still working in the post of Boy Bugler and drawing salary of Rs. 5,321/- per month. The grievance of the applicant is that the applicant was not absorbed as constable on full salary in terms of letter dated November 24, 2008 issued by the Assistant Secretary to the Government of West Bengal, Department of Home (Police).</i></p> <p><i>Mr. Sinha, Learned Counsel representing the applicant contends that the letter dated November 24, 2008 has been issued by the Home (Police) Department, Government of West Bengal in an arbitrary manner without taking into consideration the provisions of Regulation 746 and Regulation 782 of Police Regulation of Bengal. He further submits that the applicant should have been absorbed as Bugler Constable/Constable of West Bengal Police on full salary in terms of the provisions of Police Regulation of Bengal, 1943.</i></p> <p><i>Mr. Mondal, Learned Counsel representing the state respondents has relied on the reply and submitted that the applicant did not fulfil minimum educational qualification, physical measurement and age for recruitment to the post of Constable of Police and thereby the applicant was not absorbed as</i></p>	

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	<p><i>Constable of Police.</i></p> <p><i>Having heard Learned Counsel representing both parties and on consideration of the provisions of Police Regulation of Bengal in general and provisions of Regulation 746 and Regulation 782 of Police Regulation of Bengal, we find that the applicant cannot be allowed to continue in the post of Boy Bugler after attaining age of 18 years. The object of recruitment to the post of Boy Bugler is for undergoing training as Bugler till attaining the age of 18 years. The person who is recruited as Boy Bugler for undergoing training as Bugler need to be paid full salary of Constable of Police on attaining 18 years of age. The eligibility criteria of recruitment to the post of Constable of Police laid down in Regulation 746 and Regulation 782 of Police Regulation of Bengal do not indicate that for recruitment to the post of Constable of Police/Bugler Constable the candidate will have to pass the Class VIII Examination. Nor have the state respondents placed any provisions of Rules or Regulations or G.O. to establish that the minimum educational qualification for recruitment to the post of Constable/Bugler Constable is passing of Class VIII Examination. If there is any deficiency or shortfall in the eligibility criteria for appointment of the applicant</i></p>	

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	<p><i>in the post of Constable of Police/Bugler Constable the Government has the power to relax the Rules or Regulation to overcome the deficiency or shortfall standing on the way of appointment of the applicant as constable of Police/Bugler Constable. In our view, this is a fit case where the Government should exercise the power for relaxation of Rules/Regulation in connection with minimum educational qualification, physical measurement, and maximum age for appointment of the applicant in the post of Constable/Bugler Constable, particularly when the applicant was appointed on compassionate ground due to death of his father while he was in service of Constable of Police.</i></p> <p><i>In view of our above findings, we hold that the letter dated November 24, 2008 issued by the Assistant Secretary to the Government of West Bengal, Department of Home (Police) (Annexure 'B' to the original application) is not justified under the law and the same is hereby quashed. The respondent no. 4, Superintendent of Police, Murshidabad is directed to consider the appointment of the applicant in the post of Constable of Police/Bugler Constable (if such post exists) in terms of Regulation 782 and Regulation 746 of Police Regulation of Bengal and in</i></p>	

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	<p><i>accordance with law and by obtaining approval of the competent authority, if necessary, within a period of 16 (sixteen) weeks from the date of communication of the order and to take necessary follow up action within a period of 4 (four) weeks thereafter. With the above direction the original application stands <b>disposed of.</b></i></p> <p><i>Let a <b>Plain Copy</b> of the order be supplied to both parties.</i></p> <p><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	

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