

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

The Hon'ble Justice Soumitra Pal (Chairman)  
& The Hon'ble P. Ramesh Kumar (Administrative Member)

**Case No. OA-416 OF 2019**

**BHOLANATH MAITRA 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;"><u>02</u> 17.07.19</p>	<p>For the Applicant : Mrs.S.Agarwal Advocate</p> <p>For the Respondents : Mr.B.P.Roy Mr.M.N.Roy Advocates</p> <p>Affidavit of service filed today be kept on record. In this application, the applicant, who had applied for the post of Constable in the year 2001 and unsuccessful, has, inter alia, prayed for certain reliefs, the relevant portion of which is as under:</p> <p>a) <i>A Mandatory Order directing the Superintendent of Police, Nadia to consider the representation made by the applicant on 9<sup>th</sup> March, 2019 in respect of his selection for the post of Constable in West Bengal Police as per Notification No. 2702-PL/P1/8C-10/09 (Part I) dated 16.07.2010 issued by the Government of West Bengal Home (Police) Department by condoning his age bar and to act in accordance with law.</i></p> <p>Mrs.S.Agarwal, learned advocate appearing on behalf of the applicant submits that since pursuant to</p>	

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	<p>an application under the Right to Information Act 2005, it is evident that as per notification dated 16<sup>th</sup> July, 2010 issued by the Government of West Bengal, Home (Police) Department, the applicant has to undergo long distance run of 1600 meters, disqualifying him for the post for being unsuccessful in the long jump is arbitrary and illegal and hence appropriate direction may be passed on the State respondents directing recruitment to the post of Constable.</p> <p>Mr.B.P.Roy, learned advocate appearing on behalf of the State respondents submits that the issue is covered by the judgement of the High Court passed on 25<sup>th</sup> June, 2014 in the case of the applicant in WPST No. 89 of 2011 in Re: Bholanath Maitra Vs. The State of West Bengal and Others and therefore, this application is not maintainable as it is hit by the principles of res judicata.</p> <p>Heard Mrs.Agarwal and Mr.Roy, learned advocates for the parties. Perused the judgement dated 25<sup>th</sup> June, 2014 in WPST 89 of 2011. We find the same issue came up for hearing in the said writ petition</p>	

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	<p>wherein it was, inter alia held as under:</p> <p><i>“..... Thus, the Petitioner has been found unfit for being appointed as a constable in view of the physical efficiency test which he underwent.</i></p> <p><i>It has been argued on behalf of the Petitioner that he was made to perform the long jump without there being any such requirement in the selection test. The selection rules applicable to the Petitioner would obviously be those which were in force in 2002 i.e., the Rule notified on 7<sup>th</sup> January, 1992. The Rules included – 100 meters run, 800 meters run within the stipulated period of time and the long jump of a particular length. It has been contended on behalf of the Petitioner that under the Right to Information Act he was supplied rules which did not indicate that a candidate was required to perform the long jump for being selected as a constable.</i></p> <p><i>We have seen the notification dated 7<sup>th</sup> January, 1992 and there can be no manner of doubt that the physical efficiency test required the Petitioner to perform the hundred metre run in 14.5 seconds, eight hundred metres run in 2 minutes 50 seconds and the long jump of 4.57 metres. The Petitioner, having failed to pass the physical efficient test,</i></p>	

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BLR	<p><i>has rightly been refused employment.</i></p> <p><i>The writ petition is dismissed with no order as to costs....."</i></p> <p>Since we find the issue has been decided in the case of the applicant himself, the instant application is hit by the principles of res judicata and is not maintainable. Therefore, the original application is dismissed.</p> <p><b>(P. RAMESH KUMAR)</b> <b>MEMBER (A)</b></p> <p><b>(SOUMITRA PAL)</b> <b>CHAIRMAN</b></p>	