

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

The Hon'ble Mrs. Urmita Datta (Sen), Member(J)

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

Case No – OA-462 of 2018.Debendra Mallick. Vs The State of West Bengal & Others.

| Serial No. and Date of order.<br>1 | Order of the Tribunal with signature<br>2   | Office action with date and dated signature of parties when necessary<br>3 |
|------------------------------------|---|--|
| <p>01</p> <hr/> <p>14/08/2018</p>  | <p>For the Applicant : Mr. Amitava Dasgupta,<br/>Advocate</p> <p>For the State Respondents: Mr. Sankha Ghosh,<br/>Advocate.</p> <p><i>Affidavit of service filed be kept on record.<br/>The instant application has been filed praying for following relief:-</i></p> <p><b>a) Direct the Respondent No.1-3 to take into consideration the Representations of the applicant as per Annexure “ ” which are made pursuant to Hon'ble Tribunal's order in O.A. for reinstatement of t he applicant.</b></p> <p><b>b) Direct the Respondents to produce the relevant documents to this Hon'ble Tribunal so that conscionable justice can be done;</b></p> |  |

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|                                       | <p style="text-align: center;"><b>c) Any other appropriate order or orders as Your Lordship may deem fit and proper.</b></p> <p><i>According to the applicant, he was appointed on compassionate ground on 10.07.2006 due to the death of his mother Late Kusum Devi in Group D post. However, subsequently, he was terminated by order dated 29.08.06, against which, he approached this Tribunal in OA 2735 of 2006, which was disposed of by order dated 18.09.2006 with a direction to the authority to take action in due process of law against the applicant. Subsequently, he was again terminated by the authority for want of documents that his deceased mother was a confirmed employee. Being aggrieved, he has approached this Tribunal in OA No.3070 of 2006 which was disposed of by order dated 15.09.2009 holding inter alia</i></p> <p style="text-align: center;"><b>“After hearing Mr. Dasgupta and Mr. Roy representing the respective parties, we held that if the petitioner can satisfy</b></p> |  |

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|                                       | <p><i>that really his mother was a permanent government employee during her life time, the termination letter of the petitioner is liable to be quashed and for this purpose, we afforded several chances to the petitioner to produce that relevant document. Today, when the petitioner is unable to produce that document, we have no option, but, to uphold termination order, but, still we grant opportunity to the petitioner that if one fine morning he finds out the document, he can show the same to the appropriate authority for reconsideration of the termination order.</i></p> |  |

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|                                       | <p style="text-align: center;"><b><i>With this, we dispose of<br/>this application.”</i></b></p> <p><i>Being aggrieved, the applicant approached in WPST No.321(W) of 2010 before the Hon’ble High Court, which was disposed of vide order dated 23.06.2010 upholding the order of the Tribunal. The applicant again approached this Tribunal in OA 393 of 2015, which was dismissed on the ground of res judicata. Thereafter, the applicant approached before the authority with relevant documents. However, as no action was taken by the authority, he made representation dated 22.03.17. Without getting any response to the said representation, the applicant has approached this Tribunal with the aforementioned prayer.</i></p> <p><i>Heard the parties and perused the records. On the perusal of the aforementioned orders, it is noted that this Tribunal earlier considered his termination and uphold the same, however by the order dated 15.09.09 granted liberty to approach before the authority with documents, if any. The said order was further upheld by the Hon’ble High Court vide order dated 23.06.2010 in WPST 321 (W) of 2010. However, the applicant again approached before Single Bench of Hon’ble High Court in WPST</i></p> |  |

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|                                       | <p><i>185554(W) of 2014, which was ultimately dismissed on 26.02.2015. Thereafter, the applicant again approached this Tribunal in OA 393 of 2015. But, this Tribunal vide their order dated 05.02.2016 had dismissed the OA on the ground of res judicata. Even then he filed a representation before the authority as enclosed in this application, from the perusal of which, we do not find any whisper that he had submitted any documents in support of his claim that her mother was permanent employee of the department. Further, he has claimed that his representation was not properly considered. However, no documents in support of his claim has been enclosed in the instant application except one representation dated 22.03.2017.</i></p> <p><i>Further from the perusal of the prayer, it is noted that the applicant has also tried to mislead the court by way of his prayer as if this Tribunal by their orders had directed the respondent for reinstatement of the applicant.</i></p> <p><i>In view of the above, since the issue of termination of the applicant had attend finality and in earlier occasion also this Tribunal had observed that the application is misconceived with regard to the termination. We are also of the same view that the applicant is trying to knock the door of the</i></p> |  |

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| GM                                    | <p><i>Tribunal repeatedly without any supporting documents and on the self same cause of action, which has already been decided by this Tribunal and subsequently affirmed by the Hon'ble High Court. Therefore, in our opinion the applicant should be imposed with a cost for such misconceived and frivolous application. Accordingly, the OA is <b>dismissed with</b> a direction to the applicant to deposit <b>a cost of Rs.2,000/-</b> before the State Legal Authority within seven days from the date of this order.</i></p> <p><b>P. RAMESH KUMAR</b><br/><b>MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN)</b><br/><b>MEMBER(J)</b></p> |  |