

ORDER SHEET

West Bengal Administrative Tribunal

Present.-

The Hon'ble Justice Ranjit Kumar Bag

&

The Hon'ble Dr. Subesh Kumar Das

Case No. **OA 686 of 2018**

Syed Asiur Rahaman

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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08  
02/12/2019

**For the Applicant** : Mr. G.P. Banerjee,  
Ld. Advocate.

**For the State Respondent** : Mr. B.P. Roy,  
Ld. Advocate.

Affidavit of Service filed on behalf of the applicant today is kept on record.

The applicant has prayed for direction upon the respondents to disburse arrears of salary of the applicant after giving him benefit of second Career Advancement Scheme and after setting aside the impugned order dated August 02, 2017 issued by the Sub-Divisional Officer, Bishnupur, Bankura.

The applicant joined in the service as Assistant Public Prosecutor in the court of Judicial Magistrate at Berhampore in the district of Murshidabad on April 12, 1993. While the applicant was attached to the court of Learned Additional Chief Judicial Magistrate, Bishnupur, he did not sign on the Attendance Register kept in the office of the Sub-Divisional Officer, Bishnupur. The applicant was directed repeatedly by the Sub-Divisional Officer, Bishnupur and ultimately by the District Magistrate, Bankura to put signature on the Attendance Register, but the applicant was not in a position to sign on the Attendance Register during the period from April 21, 2014 to September 09, 2015. During the aforesaid period, the order was issued by the

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	<p>Deputy Secretary to the Government of West Bengal, Judicial Department on January 30, 2015 for granting second benefit of Career Advancement Scheme to the applicant, but he did not get the actual financial benefit of Career Advancement Scheme due to not signing on the Attendance Register in the office of Sub-Divisional Officer, Bishnupur. Ultimately, on July 26, 2017, the applicant was transferred from the post of Assistant Public Prosecutor, Bishnupur to the post of Assistant Public Prosecutor, Durgapur by way of attachment to the court of Learned Judicial Magistrate at Durgapur. The respondent no. 3, Sub-Divisional Officer, Bishnupur ultimately issued an order on August 02, 2017 by treating the absence of the applicant for a period of 507 days i.e. from April 21, 2014 to September 09, 2015 as unauthorised by making observation about insubordination and deduction of leave from the leave account of the applicant. The applicant has challenged the said impugned order dated August 02, 2017 as arbitrary and without jurisdiction and prayed for setting aside the said order.</p> <p>Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the applicant did not sign on the Attendance Register in the office of the Sub-Divisional Officer, Bishnupur during the period from April 21, 2014 to September 09, 2015 though it is contended by the applicant that he discharged his official duty as</p>	

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	<p>Assistant Public Prosecutor before the court of Learned Additional Chief Judicial Magistrate, Bishnupur and other courts of Judicial Magistrate at Bishnupur. Admittedly, the applicant retired from service on November 30, 2019. The further admitted position is that the applicant is not entitled to receive actual financial benefit of second Career Advancement Scheme, inspite of issuance of specific order in this regard by the Deputy Secretary to the Government of West Bengal, Judicial Department on January 30, 2015 without regularisation of the period from April 21, 2014 to September 09, 2015 which has been treated as unauthorised by the Sub-Divisional Officer, Bishnupur. The applicant will have to face difficulty and inconvenience in getting pension and other retirement benefits including Leave Encashment, if any unless and until the alleged unauthorised absence is regularised by passing specific order by the Departmental Secretary.</p> <p>Under the above circumstances, we would like to give the applicant an opportunity to ventilate his grievances against the impugned order dated August 02, 2017 before the respondent no. 1 by submitting a representation within a period of 04 (four) weeks. The respondent no. 1, Secretary to the Government of West Bengal, Judicial Department has the authority to decide on the issue of regularisation of absence of the applicant, which is treated as unauthorised by the Sub-Divisional Officer, Bishnupur during the period from</p>	

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Csm	<p>April 21, 2014 to September 09, 2015.</p> <p>In view of our above observations, the applicant is at liberty to file a representation before the respondent no. 1, Secretary to the Government of West Bengal, Judicial Department ventilating his grievances against the impugned order dated August 02, 2017 issued by the Sub-Divisional Officer, Bishnupur within a period of 04 (four) weeks from this date. The respondent no. 1, Secretary to the Government of West Bengal, Judicial Department is directed to consider the representation of the applicant (if filed within the stipulated period of time by the applicant) in accordance with law and on verification of office record after giving the applicant an opportunity of hearing by passing a reasoned order within a period of 08 (eight) weeks from the date of receiving the representation from the applicant and take necessary follow-up action within a period of 04 (four) weeks thereafter.</p> <p>With the above direction the original application stands <b>disposed of</b>.</p> <p>Let a <b>Plain Copy</b> of the order be supplied to both parties.</p> <p><b>S. K. DAS</b> <b>MEMBER(A)</b></p> <p><b>R. K. BAG</b> <b>MEMBER(J)</b></p>	