

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

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble Mr. Subesh Kumar Das (Administrative Member)

Case No –OA 655 OF 2019

SAMIM KABIR 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;">2</p> <hr/> <p>17.09.2019</p>	<p>For the Applicant : Mrs. S. Agarwal Advocate</p> <p>For the Respondent : None</p> <p style="text-align: center;">Affidavit of service filed be kept on record. Despite service of notice, none appears on behalf of the State respondents.</p> <p style="text-align: center;">In this application the applicant, working as a typist under the West Bengal Fire and Emergency Services since March, 2010, has challenged the memo dated 4th February, 2019 whereby he was informed that his prayer for change of category was regretted.</p> <p style="text-align: center;">Mrs. S. Agarwal, learned advocate appearing on behalf of the applicant submits that as it is evident from the memo dated 2nd March, 2010 appearing at page 16 of the application that the applicant was selected for the post of Lower Division Clerk (Regional Cadre) under the West Bengal Fire and Emergency Services and as at the relevant point of time there was no vacancy in the post of Lower Division Clerk, he was appointed as a typist in March, 2010, the impugned memo dated 4th February, 2019 may be set aside and his prayer for change of category may be</p>	

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	<p>considered afresh. In this regard she has relied on the notification dated 1st July, 2010 particularly paragraph 2 thereof.</p> <p>In order to deal with the matter it is appropriate to refer to paragraph 2 (d) of the notification dated 1st July, 2010 which is as under:</p> <p style="padding-left: 40px;">“(2) Subject to the conditions laid down in sub-rule (3) of this rule, the posts of Lower Division Assistants or Lower Division Clerks in the Departments, Directorates, other District offices and the Regional Offices, shall be filled up by the respective appointing authorities in the manner indicated below:”</p> <p style="text-align: center;">.....</p> <p style="padding-left: 40px;">“(d) ten per cent of the posts of Lower Division Assistant of any Directorate may be filled up by transfer from the Typists (Basic Grade) of the Directorate after considering all such typists, who possess the requisite qualifications and are willing to be so appointed;”</p> <p>Since it is evident that the applicant was appointed as a Typist and the notification stipulates that ten per cent of the posts of Lower Division Assistants or</p>	

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SCN.	<p>Lower Division Clerks of any Directorate may be filled up by transfer from Typist (Basic Grade), the original application is disposed of by directing the Director General, West Bengal Fire and Emergency Services, Kolkata, the respondent no.2 (ii), to consider the case of the applicant afresh along with all such Typists who possess requisite qualification and are willing to be appointed as and when there is a vacancy in the category in the post of Lower Division Assistants or Lower Division Clerks.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	