

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-1015 of 2019.Siddhartha Bose Vs The State of West Bengal & Others.

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;">02</p> <p>-----</p> <p style="text-align: center;">07-01-2020</p>	<p>For the Applicant : Mr. T. Talukder, Mr. A. Tarafdar, Advocates.</p> <p>For the State Respondents : None.</p> <p>The instant application has been filed challenging the impugned order dated 15-02-2019 whereby the applicant was discharged from his duty w.e.f. 19-03-2016 in terms of Rule 6 of Notification No. 1832-F(P) dated 01-03-2013 read with Notification No. 265-F(P) dated 18-01-2016.</p> <p>As per the applicant, he was appointed to the post of LDC, State (Regional) Cadre on probation under the Directorate of West Bengal Fire and Emergency Services vide office order dated 08-01-2016. Thereafter he was posted at the office of the Divisional Fire Officer, South 24-Parganas Division and was simultaneously to perform stand-by duty at the Administrative</p>	

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	<p>Department at Bikash Bhavan. He joined the duty under the Divisional Fire Officer on 16-03-2016 (afternoon) and subsequently released on 17-03-2016 from the office of the Divisional Fire Officer and again joined in the same capacity to the Department of Fire and Emergency Services on stand-by offices on 18-03-2016 (afternoon). However, as per the applicant, due to his personal difficulties, he could not be able to be present in the office since 19-03-2016.</p> <p>Thereafter he was issued with a show cause Memo dated 28-04-2016 which he replied on 19-12-2017 enclosing some medical certificate of his father's illness and ultimately he was discharged from his service vide order dated 15-02-2019 holding inter alia :-</p> <p>“ He was asked to explain his such act, within 07(seven) days from the receipt of this office communication issued Vide Memo No. WBFES/2937/EST/7/843/16 dated 28-04-2016. But he replied to the aforesaid</p>	

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	<p>memo, after a prolonged period, on 19-12-2017, enclosing a Medical Certificate of his father's illness with it, which can not be a ground for his unauthorized absence during the period of probation. His prayer dated 01-02-2018, 27-02-2018, 07-03-2018, 09-03-2018, 13-03-2018, 16-03-2018, seeking to join his service are also regretted due to unsatisfactory performance throughout the period of probation.</p> <p>Shri Siddhartha Bose, in his total probation period, attended his duty only for a short period, i.e., from 16-03-2016(afternoon) to 18-03-2016 for just 3(three) days. He did not appear in the Departmental Examination which is mandatory to clear the same within the period of probation. Further, he did not even submit any request to appear in the same, thus violating Rule 5 & Rule 6 of Notification No. 1832-F(P); dated 01-03-2013, of Finance Department, Government of West Bengal.</p> <p>He did not submit his Declaration of</p>	

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	<p>Assets during his probation period, thus violating Rule 3(6) of West Bengal Services (Duties, Rights and Obligations of the Government employees) Rules 1980.</p> <p>Since, he was under the period of probation and his conduct has been found highly unsatisfactory, no formal departmental proceedings was launched against him.</p> <p>Keeping in views all the facts and circumstances mentioned above, and after application of my judicious mind I strongly feel that Shri Siddhartha Bose is not fit for the Government job. Hence Shri Sidharthan Bose is hereby discharged from his service with effect from 19-03-2016 in terms of Rule 6 of Notification No. 1832-F (P); dated 01-03-2013, of Finance Department, Government of West Bengal, read with Notification No. 265-F (P), dated 18-01-2016, of Finance Department, Government of West Bengal.</p> <p>He is asked to refund the excess payment drawn by him as salary for the months of April 2016 and May 2016</p>	

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	<p>immediately”.</p> <p>However as per the applicant, he has not been granted any opportunity of being heard before discharge from duty. Being aggrieved with, he has filed the instant application though affidavit of service has been filed but none appear for the respondents.</p> <p>We have heard the applicant and perused the records specially the impugned order wherefrom it is noted that the applicant was discharged from the duty as he had only perform his duty for 3(three) days i.e. on 16-03-2016 to 18-03-2016. When he was asked to show cause vide letter dated 28-04-2016 that time also he was absent and replied after a prolonged period of more than one year on 19-12-2017 only enclosing some medical certificate of his father. It is admitted fact that during his absent period, he never intimated the authority. From the perusal of the appointment letter dated 08-01-2016, it is clear that continuation of his service by way of absorbing as regular</p>	

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Mihir	<p>employee his service of satisfactory period and passing the examination. Further from the perusal of the impugned order, it is observed that the applicant was granted opportunity by issuing show cause on 28-04-2016 even then he replied the same on 19-12-2017 i.e. after more than one and a half years. It is also admitted fact that he never intimated the authority about his absence. Therefore we do not find that there is any violation of natural justice as he has been granted opportunity to resume his duty and also to reply reasons for unauthorised absent. It is also settle principal of law that probationer has no right to continue in service unless and until he perform his duty satisfactory. Thus we do not find any reason to entertain the application. Accordingly, the OA is dismissed being devoid of any merit.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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