

**ORDER SHEET**  
**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-****The Hon'ble Justice Soumitra Pal, Chairman****& The Hon'ble P. Ramesh Kumar, Member (A)****Case No OA - 952 of 2018****Manoj Kumar Rai -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;"><u>7</u> 07.11.2019</p>	<p><i>For the Applicant : Mr. T.K. Majumder, Advocate.</i></p> <p><i>For the Respondents : Mrs. S. Agarwal, Advocate.</i></p> <p><i>In this application, the applicant has prayed for several reliefs, the relevant portion of which is as under:</i></p> <p><i>“(a) An order directing the respondents particularly the respondent Nos. 1 and 3 to regularize the petitioner’s service as “Peon” under compassionate appointment in regular establishment in the existing pay scale of Group-D as per Ropa Rule 1998.</i></p> <p><i>(b) An order directing the respondents their subordinates, their agents and successors to set aside and/or rescind and/or withdraw the verbal order of termination as well as to allow the petitioner to join his duty as a peon in the office of the respondent No. 5.</i></p> <p><i>(c) An order directing the appropriate authority the respondents, their agents, subordinates and successors to release the current salary including the arrear salary</i></p>	

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	<p style="text-align: center;"><b><i>immediately with effect from April, 2004."</i></b></p> <p><i>Heard Mr. T.K. Majumder, learned advocate for the applicant and Mrs. S. Agarwal, learned advocate for the respondents.</i></p> <p><i>It appears that pursuant to the order dated 28<sup>th</sup> November, 2000, the applicant was appointed as a peon on a contract basis for a period of one year in the fixed remuneration of Rs. 2600/- which was terminable on one month's notice on either side. According to the petitioner, the appointment was on compassionate ground and continued without break from 2000 to 2003, like a regular employee, when he was disengaged without notice. Thereafter, the applicant made a representation before the respondent authority on 28<sup>th</sup> November, 2003 for regularisation of his service as a peon under compassionate appointment which is yet to be considered. Aggrieved this application has been filed.</i></p> <p><i>It is noteworthy that the Commanding Officer 3 Bengal BN NCC by an intimation dated 28<sup>th</sup> November, 2003 had requested the Deputy Secretary, Government of West Bengal to put the applicant in a regular establishment in the existing pay &amp; scale of group - D staff as per ROPA 1998.</i></p>	

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A.K.P.	<p><i>It appears that by mistake, the applicant had challenged the disengagement by filing a writ petition, being No. 12655(W) of 2004, in the High Court at Calcutta which was dismissed for want of jurisdiction and liberty was granted to the applicant to take appropriate steps in accordance with law. Thereafter, the instant original application was filed in the year 2018.</i></p> <p><i>Since we find that the appointment was made on a contract basis and thereafter, he was disengaged, no order can be passed on this application. However, as the Commanding Officer, 3, Bengal Bn. N.C.C. vide intimation dated 28<sup>th</sup> November, 2003 to the Deputy Secretary, Govt. of West Bengal, Home (Civil Defence – NCC) Department, Kolkata made a request to put the applicant in the regular establishment in the then pay scale of Group – D staff as per Ropa, 1998, respondent authorities, if in a position to do the needful even after the passage of so many years, are at liberty to put the applicant in the said job, if available, on same terms and conditions and in accordance with law expeditiously.</i></p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER (A)</b></p> <p><b>SOUMITRA PAL</b> <b>CHAIRMAN</b></p>	