

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-974 of 2018.Amal Kumar Jana. 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>05</p> <p>-----</p> <p>22-07-2019</p>	<p>For the Applicant : Mr. A. K. Niyogi, Advocate.</p> <p>For the State Respondents : Mr. A. L. Basu, Advocate.</p> <p>The instant application has been filed challenging the impugned order dated 27-12-2016 whereby the Superintendent of Police had ordered inter alia :-</p> <p>“After being heard, Shri Amal Jana, CC Menial of North 24-Parganas district, is hereby demobilized from his assigned service until further order with effect from 28-07-2016 a.m. for involvement in a racket in procuring Indian Passport by producing forged documents and other illegal means. He was</p>	

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Amal Kumar Jana.

Form No.

Vs.**The State of West Bengal & Others.**Case No. OA-974 of 2018

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>arrested in c/w Barasat PS case No. 612/16 dated 28-07-2016 u/s 465/466/468/471/472/474/120B IPC on 28-07-2016. His act is improper and treacherous which furnished the image of Police Department”.</p> <p>As per the applicant, he was appointed in place of Sri Promotha Mondal as a contingent menial in 2004. However he has been demobilized by the impugned order.</p> <p>As per the applicant, he was working for considerable time and he cannot be demobilized as there was no provision for demobilization for permanent Group-D employee. However he may be put under suspension as per Disciplinary Proceeding Rule. Being aggrieved with, he has filed the instant application.</p> <p>The Counsel for the respondent has raised the preliminary objection on the point of</p>	

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	<p>limitation as well as maintainability of the instant application as the applicant was appointed as contingent menial who is not a government employee at all but he was probably engaged as contingency staff. Therefore he can be demobilized at any point of time thus there is no scope of disciplinary proceeding. He has prayed for rejection of the impugned order.</p> <p>We have heard both the parties and perused the records. It is noted that the applicant has been demobilized until further order w.e.f. 27-12-2016 for serious charge of involvement in a racket in procuring Indian Passport by producing forged documents and other illegal means. However he was also arrested and he was in jail custody and one criminal case was pending against him. Moreover, the letter dated 16-08-2004,(Annexure-A) which has been claimed to be an appointment letter of the applicant, cannot be treated as an appointment letter as there is some direction for arrangement of</p>	

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Mihir	<p>engagement of the applicant in place of another person as a contingent menial staff which is not a post for government employee. However the applicant is not also in a position to show his appointment letter or for any other order by which he was appointed as a permanent Group-D staff as claimed by him. However the application was also filed after 2(two) years.</p> <p>In view of the above, we do not find any reason to entertain the instant application as the applicant not being a government employee can be demobilized at any point of time if there is serious allegation against him for which there is no need of disciplinary proceeding. Even the application is also barred by limitation.</p> <p>Accordingly, the application is dismissed being devoid of any merit as well as being barred by limitation.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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