

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

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

Case No – RA – 06 of 2018 (in connection with OA 321 OF 2016)

ASIM KUMAR ACHARYA 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;">4</p> <hr/> <p>20.11.2019</p>	<p>For the Applicant : Mr. J. Mondal, Advocate</p> <p>For the Respondents: Mr. S. N. Ray, Advocate</p> <p>Though by order dated 11th September, 2019 direction was given to file reply to the review application, however, Mr. S.N. Ray, learned advocate appearing on behalf of the respondents, submits that since the issue is a question of law, no reply has been filed.</p> <p>This review application has been filed for reviewing the order passed on 29th August, 2018 in O.A. 321 of 2016 : Asim Kumar Acharya vs. State of West Bengal & Ors. which is as under : -</p> <p style="text-align: center;">“In this application, the applicant has prayed for a direction upon the respondents for an enquiry into the selection process for the post of Group “D” in the Commercial Tax Department. Earlier, the applicant had moved the Tribunal by filing OA 1978 of 1998, which was dismissed by judgement passed on 11th July, 2003. Challenging the said order of dismissal, the</p>	

ORDER SHEET

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>applicant filed a Writ Petition before the Hon'ble High Court , evident from the reply filed by the State, which was dismissed with costs. Thereafter, the applicant filed one RTI application on 11th January, 2016. The RTI authorities had replied on 23rd February, 2016 by recording as under :-</p> <p style="text-align: center;"><i>“ We are in receipt of your application dated 11/01/2016, received on 25/01/2016 by the office of the SPIO/HQ, u/s 6 of the RTI Act, 2005.</i></p> <p style="text-align: center;"><i>However, in response to your queries on the above subject and reference, I am to inform you that after verifying the photocopy of the envelop submitted by you, it appears that no such envelop was issued from this office and the speed post number is not matched with our records. So, the question of verification of other contents does not arise.....” .</i></p> <p>Since we find that the applicant is trying to re-agitate the matters which have been adjudicated no order can be passed on this application. Therefore, the</p>	

ORDER SHEET

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>application is dismissed.”</p> <p>The grounds for review are as under :</p> <p>“I. For that the impugned order suffer from errors apparent of the face of record;</p> <p>II. For that the Learned Court only observed the Annex. E. While according to R.T.I. Act, 2005 The information supplied to be examined by the Court How far the same is justified and acceptable even for a prudent person.</p> <p>III. For that the Court has over looked the Annexure ‘B’ whereby the authority informed the petitioner that there is no any provision for awarding marks of 300 for selection of Gr. ‘D’ candidate. Although in this case the State fought a long battle by producing score sheet, merit list and panel;</p> <p>IV. For that all along with the commercial Tax Authority played tricks to over through the claim of the petitioner being a successful candidate in the interview.</p> <p>V. For that unless the veracity of the</p>	

ORDER SHEET

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>information under R.T.I. Act is tested by the Court of law then the very purpose of the Right to Information Act, 2005 would be infructures. And the people will be subjected for harassment.</p> <p>VI. For that there are many other good grounds that may be argued at the time of hearing.”</p> <p>It is submitted by Mr. J. Mondal, learned advocate for the applicant that the Tribunal while passing the order under review did not consider the memo dated 28th April, 1998 wherein the name of the applicant appears against serial no.13 which contains a list of 45 empanelled candidates for the post of Peon and the name of the applicant appears against serial no. 20 – 13. Further the memo dated 27th April, 2015, being Annexure ‘B’ to the Original Application was also not considered. In this regard reliance has been placed on the judgement in “Sharmistha Maji vs. State of West Bengal & Ors.” : (2013) 2 CAL LT 88 (HC).</p> <p>Mr. Ray submits evidently the applicant moved the Tribunal earlier by filing O.A. 198 of 1998 which was dismissed on 11th July, 2003. Challenging the said order the applicant filed a writ petition which was dismissed with costs which is not in the application for review.</p>	

ORDER SHEET

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
SCN.	<p>Since the matter has been decided by the High Court, it is hit by the principles of res judicata. Moreover, if the applicant is aggrieved by any decision of the S.P.I.O. of the Commercial Tax Department, he should have preferred appeal under Section 19 of the Right to Information Act, 2005.</p> <p>Heard learned advocates for the parties. The learned advocate for the applicant has relied on the grounds in the review application. Therefore, it is accepted that the applicant had earlier moved the Tribunal by filing O.A. 198 of 1998 which was dismissed on 11th July, 2003. The said order was challenged by filing writ petition before the High Court which was also dismissed. These facts have not been questioned.</p> <p>Since the High Court had dismissed the writ petition and the matter has reached its finality, the issue cannot be reopened now at this stage before the Tribunal. Hence, the review application is dismissed.</p> <p>(P. Ramesh Kumar) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	