

ORDER SHEET
West Bengal Administrative Tribunal

Present.-
The Hon'ble Justice Ranjit Kumar Bag
&
The Hon'ble Dr. Subesh Kumar Das

Case No. **CCP 107 of 2017 (OA 209 of 2017)**

Kulesh Chandra Mondal

Versus

Surojit Roy, Director, Youth Service

Serial No. and
date of order

Order of the Tribunal
with signature

Office action with date
and dated signature of
parties when necessary.

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05
30/07/2019

**For the Contempt
Petitioner**

Mr. S.N. Ray,
: Ld. Advocate.

**For the Contemnor
Respondent**

: N O N E.

Affidavit of Service filed on behalf of the applicant today is kept on record. The applicant has prayed for issuance of the contempt rule against the contemnor for willful violation of the order dated June 08, 2017 passed in OA-209 of 2017.

By order dated June 08, 2017 passed in OA-209 of 2017, this Tribunal gave direction to the contemnor to take a decision on the basis of the materials available in the original application about the entitlement of the applicant to get the benefit of Rule 12 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 after giving the applicant an opportunity of hearing and communicate the said decision of the applicant forthwith.

Mr. S.N. Ray, Learned Counsel for the applicant contends that the reasoned order passed by the contemnor during pendency of the contempt application before this Tribunal is not in terms of the direction given by the Tribunal in OA-209 of 2017. None appears on behalf of the contemnor in this case.

ORDER SHEET – (Continuation)

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	<p>The reasoned order passed by the contemnor (Commissioner and Ex-Officio Director, Department of Youth Services and Sports, Government of West Bengal) on September 04, 2018 indicates that the applicant while working as Group 'D' employee under Directorate of Health Service was dismissed from service due to conviction in a criminal case. The applicant was convicted for commission of the offence u/s 302/34 of the Indian Penal Code on March 29, 2004 in Sessions Trial No. 51 of 2001 and sentenced to suffer imprisonment for life by Learned Additional Sessions Judge, Malda. The order of conviction and sentence of the applicant was affirmed by the Hon'ble High Court on appeal, but the Hon'ble Supreme Court commuted the sentence of imprisonment for life to sentence of imprisonment for 10 (ten) years by converting the conviction u/s 304 Part I of Indian Penal Code in criminal Appeal No. 1172 of 2007 arising out of SLP (Criminal Appeal No. 4685 of 2006). The applicant served sentence of imprisonment for 10 (ten) years and came out from Correctional Home and submitted application for grant of compensatory allowance under Rule 12 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971 (in short, The D.C.R.B. Rules, 1971). The contemnor has formed the opinion that the applicant is not entitled to</p>	

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	<p>get the benefit of Rule 12 of the D.C.R.B. Rules, 1971, but he has sought for the opinion of the Learned Legal Remembrancer, Government of West Bengal.</p> <p>Having heard Learned Counsel for the applicant and on consideration of the reasoned order passed by the contemnor, we are of the view that the applicant has forfeited his past service after his dismissal/removal from service in terms of Rule 33 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971. No case is made out by the applicant for special consideration for grant of compensatory allowance in terms of Rule 12 of West Bengal Services (Death-cum-Retirement Benefits) Rules, 1971.</p> <p>In view of our above findings, we can safely hold that the contemnor has complied with the direction given by the Tribunal in OA-209 of 2017. As a result, the contempt application is dismissed.</p> <p>S. K. DAS MEMBER(A)</p> <p>R. K. BAG MEMBER(J)</p>	

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