

**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).

MA-209 of 2019 (OA-614 of 2018)

**Md. Rizwan** 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><u>05</u> 21.11.2019</p> <p>Page /1</p>	<p>For the petitioner : Mr. D.N. Roy, Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the respondent : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The instant application has been filed praying for following relief :-</p> <p>a) An order directing the respondent authorities to forthwith consider and transfer your applicant to the post of Additional Labour Commissioner on and from 01.01.2018 within a stipulated time period.</p> <p>b) An order do issue directing the respondent authorities to consider and recommend the name of your applicant for I.A.S. nomination within a stipulated time period.</p> <p>c) An order do issue directing the respondent authorities to dispose</p>	

**ORDER SHEET**

Form No.

Md. Rizwan

**Vs.**

The State of West Bengal &amp; Ors.

. Case No. MA-209 of 2019 (OA-614 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 style="text-align: center;">05 21.11.2019</p>	<p>of the demand justice dated 28.06.2017 by passing a reasoned and speaking order in accordance with law after giving an opportunity of hearing and to communicate the decision arrived at within a stipulated time period.</p> <p>d) A further order do issue directing the respondent authorities to transmit records pertaining to the instant case so that conscionably justice can be done.</p> <p>e) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protech the right of the applicant and in the ends of justice.</p> <p>During the course of hearing the counsel for the applicant has submitted that as the issue involved in prayer (b) of OA-614 of 2018 has a link with the prayer made in prayer</p>	

**ORDER SHEET**

Form No.

Md. Rizwan

Vs.

The State of West Bengal &amp; Ors.

. Case No. MA-209 of 2019 (OA-614 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 style="text-align: center;">05</p> <hr/> <p style="text-align: center;">21.11.2019</p> <p style="text-align: left;">Page /3</p>	<p>made in OA-599 of 2018. Therefore, he is not pressing prayer (b) of OA-614 of 2018. Prayer is allowed. However, he is pressing prayer made in MA-209 of 2019. He has further drawn our attention to the Memo dated 19.07.2019 (A-3) collectively issued by the Deputy Secretary to the Govt. of West Bengal to the OSD &amp; Labour Commissioner, Govt. of West Bengal quoting the views of Learned Legal Remembrancer, West Bengal, which is as follows :-</p> <p style="text-align: center;"><i>The Administrative Department has to comply the order dated 01.04.2019 in OA No. 614 of 2018 and at this stage the incumbent Md. Rizwan is not to be granted the designation of Additional Labour Commissioner.</i></p> <p>Counsel for the applicant has submitted that the respondents are not considering the case of the petitioner for designation of Additional Labour Commissioner only on the ground that till date they have not filed reply to</p>	

**ORDER SHEET**

Form No.

Md. Rizwan

**Vs.**

The State of West Bengal &amp; Ors.

. Case No. MA-209 of 2019 (OA-614 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 style="text-align: center;">05 21.11.2019</p> <p style="text-align: right;">P/4</p>	<p>OA-614 of 2018 which is not a valid ground at all. Therefore, he has prayed for consideration of his prayer made in this MA application.</p> <p style="text-align: center;">The counsel for the respondent has submitted that he has nothing to say regarding memo dated 19.07.2019.</p> <p style="text-align: center;">Heard both the parties and perused the records. It is noted that the applicant has prayed for consideration for his posting to the post of Additional Labour Commissioner which according to the applicant is not a post for promotion but only upgradation by posting on transfer. Further, from the perusal of memo dated 19.07.2019, it is observed that the prayer of the applicant was regretted.</p> <p style="text-align: center;">From the perusal of the above, we do not find there is any valid reason for rejection as the department themselves have admitted that they have to comply with the order by way of filing of reply, which till date not being filed.</p>	

**ORDER SHEET**

Form No.

Md. Rizwan

**Vs.****The State of West Bengal & Ors.**

. Case No. MA-209 of 2019 (OA-614 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 style="text-align: center;">05 21.11.2019</p> <p style="text-align: center;">sc</p>	<p>Therefore, this ground cannot be a valid reason for such rejection. Therefore, in our considered view there is no bar to consider the case of the applicant as per rules and for such posting to the post of Additional Labour Commissioner on the aforesaid ground. The respondents are at liberty to consider the case of the applicant and to take decision with regard to posting of the applicant for upgradation as Additional Labour Commissioner within a period of four weeks from the date of receipt of this order as per rules. Accordingly, both OA &amp; MA are disposed of.</p> <p style="text-align: center;"> <b>P. RAMESH KUMAR</b>  <b>MEMBER (A)</b> </p> <p style="text-align: center;"> <b>URMITA DATTA (SEN)</b>  <b>MEMBER (J)</b> </p>	



