

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

June 09, 2022
ARDR
(139)

WPA 1738 of 2021

Tarani Kanta Barman
Vs.
The State of West Bengal & ors.

Ms. Suman Sehanabis (Mandal),	...for the petitioner.
Mr. Bikramaditya Ghosh,	...for the NBSTA.
Mr. Hirak Barman,	
Ms. Bedashruti Bose,	...for the State.

The petitioner was appointed on temporary basis for the post of Inspector (MR) under the North Bengal State Transport Corporation (hereinafter referred to as NBSTC) and joined service on October 25, 1991. Due to pendency of a criminal case against the petitioner arising out of Dinhata Police Station Case no. 138 of 1990 dated April 11, 1990 the petitioner was placed under suspension with effect from January 9, 1997 and a disciplinary proceeding was initiated against the petitioner. The disciplinary proceeding was concluded on July 9, 1997 by an order reverting the petitioner back to the casual status of Inspector and the period of his suspension was treated as on punishment during which he would be entitled to subsistence allowance and nothing more. The said order was carried in appeal by the petitioner and the appellate authority, by an order dated June 16, 1998 observed that since the court case against the petitioner was

pending the petitioner would be allowed to remain as MR Inspector with retrospective effect from the date of issuance of final order by the Managing Director on July 9, 1997 till disposal of the court case and his prayer for absorption in service would be considered after obtaining final order from the Court. The petitioner was acquitted from the charges levelled against him by a judgment dated September 29, 2004 and such acquittal was challenged by the de facto complainant before this Court in a revisional application being CRR 3137 of 2004. The revisional application was disposed of by an order of remand directing the trial Court to decide the matter afresh from the stage of argument. The matter was reconsidered by the trial Court which acquitted the petitioner of the charges by a judgment dated February 22, 2012. Pursuant to such order of acquittal, the petitioner made several representations before the concerned authority for regularization to the post of Inspector in terms of the order of the appellate authority, NBSTC passed on June 16, 1998, but to no effect. The petitioner approached this Court in a writ petition and by an order passed on 3rd June, 2013 in WP 12992 (W) of 2013, a coordinate Bench of this Court directed the Managing Director to consider the petitioner's prayer after granting an opportunity of hearing to him as early as possible but not later than

thirty days from the receipt a copy of the order. Non compliance of the said order led the petitioner to file a contempt application being CPAN 1540 of 2014 following which an order was passed by the Managing Director, NBSTC, Cooch Behar on 18th August, 2015 indicating that the petitioner was found eligible for appointment but the process could not be completed until his police verification report was received from the appropriate authority. The petitioner was finally brought under the regular establishment with effect from 3rd February, 2016 by an order issued by the Managing Director, NBSTC on 22nd Mach, 2016. The petitioner has prayed for a direction upon the authority to disburse all employment benefits in favour of the petitioner for the period from February, 2012 to January, 2016.

The petitioner seeks liberty to submit a comprehensive representation before the concerned authority ventilating his grievance and prays for a direction upon the authority to consider the representation at the earliest.

Learned counsel for the State respondents submits that the 3rd respondent be directed to consider the representation within a stipulated time frame.

Upon consideration of the submissions made on behalf of the parties and material on record, the writ

petition is disposed of with liberty to the petitioner to submit a comprehensive representation ventilating his grievances before the 3rd respondent within a week from date. The 3rd respondent is directed to consider and dispose of the representation within two weeks from the date of receipt of the same upon granting reasonable opportunity of hearing to the petitioner, in accordance with law.

The decision taken by the authority shall be communicated to the petitioner within a week thereof.

It is made clear that this Court has not gone into the merit of the case and the petitioner shall be at liberty to place his contention as made out in the writ petition before the concerned authority at the time of hearing.

With the above directions, WPA 1738 of 2021 is disposed of.

There shall be, however, no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be furnished to the parties upon compliance of necessary formalities.

(Suvra Ghosh, J.)