

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

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

Case No – O.A. 345 of 2015

BIKASH CHANDRA NAYAK Vs The State of West Bengal & Ors.

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<p>4</p> <hr/> <p>02.12.2020</p>	<p>For the Applicant : Mr. T.P. Das, Mr. K.P. Sahoo, Advocates</p> <p>For the Respondents : Mr. A. Datta, Mr. A. De, Departmental Representatives</p> <p>For the A.G., West Bengal : Mr. B. Mitra, Departmental Representative</p> <p>Let affidavit of service filed be kept on record.</p> <p>In this application, Bikash Chandra Nayak, the applicant, has prayed for several reliefs, the relevant portion of which is as under :</p> <p>“(i) Directing the respondent authorities concerned, to forthwith allow the present applicant to continue in the post of Revenue Inspector (RI) till the date of his retirement and to set aside the letter dated 2nd June, 2020 and 17th August, 2020 issued by the SDL&LRO, Contai passed by the respondent authorities.</p> <p>(ii) An order do issue directing the respondent authorities concerned, each one of them, to forthwith set aside the all orders passed by</p>	

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	<p>the concerned authority for depositing the overdrawn amount alongwith interest in the mean time.</p> <p>(iii) An order do issue directing the respondent authorities concerned to forthwith direct the concerned authorities to return a sum of Rs.10,000/-, which was deducted from his monthly salary by an order dated August 17, 2020 and not to be deducted any amounts from his salary account any furthers.”</p> <p>The Original Application was affirmed on 22nd September, 2020. We find that the applicant was appointed under the died-in-harness category in the post of Bhumi Sahayak (BS) on 25th March 1992 in the office of the Block Land and Land Reforms Officer, Contai-III, Purba Medinipur. On 23rd December, 2014, the applicant was promoted to the post of Revenue Inspector (RI) and was posted in the office of the Block Land and Land Reforms Officer, Khejuri – II, Purba Medinipur. Thereafter it appears the order of promotion was cancelled and the applicant was reverted back to the post of Bhumi Sahayak (BS) by an order dated 10th December, 2019 which is under challenge as stated by the applicant. The applicant is going to retire on 31st December, 2020. Since the promotion order has been cancelled and the applicant</p>	

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	<p>has been directed to return the overdrawn amount of Rs.5,81,266/- along with interest of Rs.34,467.32 with effect from 10th February, 2015 to 30th November, 2019, the same is also under challenge.</p> <p>Mr. A. Datta, the Departmental Representative for the respondent nos. 1 to 5 submits that after the applicant was promoted, he was directed to produce the educational qualification certificate and mark sheet granted by the West Bengal Council of Rebindra Open Schooling. By intimation dated 29th January, 2016 the authority of the West Bengal Council of Rebindra Open Schooling intimated that the mark sheet and certificate of the applicant are fake. Thereafter, by order dated 26th December, 2017, departmental proceedings were initiated and penalty was proposed to be inflicted in terms of Sub-Rule (iv) of Rule 8 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971. The applicant by the said order was directed to submit a representation which he might wish to make on the penalty proposed but only on the basis of the evidence adduced during the enquiry.</p> <p>It appears that ultimately the departmental proceeding culminated in the passing of order on 13th February, 2020, the relevant portion of which is as under:</p> <p style="text-align: center;">“AND WHEREAS, having regard to the gravity of the charge framed and established against Shri Bikash Chandra Nayak the</p>	

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	<p>undersigned after consideration of his representation has been pleased to award the penalty of fixation of pay of Shri Nayak at the initial stage in the pay band scale of Rs.5400/-- Rs.25200/- (PB-2) with Grade Pay of Rs.2600/- in terms of sub-rule 8 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 and the overdrawn amount should be recovered with simple interest at the rate of 3.5% per annum from the emoluments of Shri Bikash Chandra Nayak immediately;</p> <p>NOW, THEREFORE, in pursuance of sub-rule 15 of Rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971; the undersigned has been pleased to order for imposing the aforesaid penalty upon Shri Bikash Chandra Nayak, R.I. with effect from the date of the issue of the order.”</p> <p>It appears in the departmental proceedings the applicant had tendered a letter dated 4th May, 2018 which was an “Apology letter with a prayer for reducing Penalty” which was pursuant to the second show-cause notice dated 26th December, 2017. It is submitted as the applicant has accepted the charges made against him and has tendered apology which has been suppressed in this application, no order may be passed.</p>	

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SCN.	<p>Heard learned advocates for the parties. Since we find that the applicant in course of departmental proceedings had accepted the fact that he had submitted fake mark sheet and certificate and has prayed for apology in the letter dated 4th May, 2018, we are of the view that the orders under challenge cannot be interfered with.</p> <p>Let copies of documents filed on behalf of the respondents be kept on record.</p> <p>The application is dismissed.</p> <p>Since for circumstances beyond control the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(Soumitra Pal) CHAIRMAN</p>	