

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – **OA 602 OF 2016**

Amal Chandra Bakhuli 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
11 <hr/> 05.07.2018	<p>For the Applicant : Mr. D.K. Mukherjee, Learned Advocate.</p> <p>For the Respondents : Mr. S.K. Mondal, Learned Advocate.</p> <p>The applicant was working as General Duty Attendant in Sub-Divisional Hospital at Tamluk since July 26, 1982. On June 20, 2014, the applicant was arrested in connection with Sutahata Police Station Case No. 108 of 2014 dated May 21, 2014 under section 420/406/471/120B/34 of the Indian Penal Code. On June 24, 2014, the applicant was placed under suspension by order of respondent no. 5, Chief Medical Officer of Health, Purba Medinipur. The said order of suspension was set aside by the Tribunal on February 24, 2015 in OA-1011 of 2014. The contention of the applicant is that he was not allowed to report for duty in spite of revocation of order of suspension by this Tribunal. The applicant again approached the Tribunal by filing OA-475 of 2015 which was disposed of on July 30, 2015. On July 30, 2015, the Tribunal gave direction to the respondent no. 5 to allow the applicant to join for duty immediately on the date on which he will report for duty on the ground that the order of suspension has already been set aside by the Tribunal. Ultimately, the applicant had to approach the Tribunal by filing contempt application being CCP-94 of 2015 on the ground that the applicant was not allowed to report for duty in spite of specific order</p>	

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passed by the Tribunal. However, on February 18, 2016, the said contempt proceeding was dropped as the applicant was permitted to join in the meantime on February 1, 2016. With the above factual matrix, we have to decide the following two issues :

first, whether the order passed by the respondent no. 6 on March 28, 2016 is justified under the law and

secondly, whether the respondent no. 5 has taken any decision with regard to the period of suspension and the period during which the applicant could not report for duty.

Having heard Learned Counsel representing both parties and on consideration of the order dated February 28, 2018 passed by Learned Additional Chief Judicial Magistrate-II, Haldia in G.R. 658 of 2014, we find that the criminal case which was started against the applicant on May 21, 2014 ended in acquittal of the applicant from the charge on February 28, 2018. The natural corollary is that the criminal case was pending against the applicant during the period from May 21, 2014 to February 27, 2018. Admittedly, the applicant was arrested and detained in custody exceeding 48 hours in connection with criminal case on June 20, 2014 and thereby he is deemed to have been suspended under the provisions of West Bengal Services (Classification, Control and Appeal) Rules, 1971. However, the order of suspension passed by the respondent no. 5 was revoked by this Tribunal on February 24, 2015. It is immaterial whether the

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respondent no. 5 subsequently passed any order of revocation of suspension in compliance with the direction passed by the Tribunal. It appears from the materials on record that the order of revocation of suspension was again kept in abeyance which was not found to be justified under the law by the Tribunal in the order dated July 30, 2015 passed in OA-475 of 2015. We do not find any justification for not allowing the applicant to report for duty during the period from February 25, 2015 to January 31, 2016, as there was no valid order of suspension during the aforesaid period of time. It is the duty of the respondent no. 5 to decide how the period of absence of the applicant from duty from February 25, 2015 to January 31, 2016 will be regularised. It is also the duty of the respondent no. 5 to decide how the period of suspension of the applicant from June 20, 2014 to February 24, 2015 will be treated.

With the above background, the respondent no. 6 is not justified in issuing order dated February 28, 2016 for recovery of Rs.16,457/- from the salary of the applicant, particularly when order has not been passed with regard to the salary of the applicant during the period of suspension and period of absence from duty.

In view of our above findings, the letter dated March 28, 2016 issued by the respondent no. 6, Block Medical Officer of Health, Sutahata Block, Amlat Block Primary Health Centre in the district of Purba Medinipur is set aside. The respondent no. 5, Chief

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Medical Officer of Health, Purba Medinipur is directed to pass a reasoned order as to whether or not the period of suspension of the applicant from June 20, 2014 to February 24, 2015 will be treated as on duty and how the absence of the applicant from duty during the period from February 25, 2015 to January 31, 2016 will be regularised, particularly, when the applicant was not allowed to report for duty in spite of non-existence of any valid order of suspension during the aforesaid period. The respondent no. 5, Chief Medical Officer of Health, Purba Medinipur is also directed to fix the pay of the applicant for drawing up salary on February 1, 2016 onwards. The respondent no. 5 is directed to pass the reasoned order in the light of the observations made by us hereinabove within a period of 12 (twelve) weeks from the date of communication of the order and to communicate the same to the applicant and respondent no. 6, Block Medical Officer of Health, Sutahata Block, Amlat Block Primary Health Centre, Purba Medinipur within a period of 2 (two) weeks thereafter.

With the above direction, the original application is **disposed of**.

Let a plain copy of this order be supplied to both parties.

Sanjib

(S.K. DAS)
MEMBER(A)

(R. K. BAG)
MEMBER (J)