

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

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

Case No – OA 875 OF 2016

Tamal Naskar 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
09 28.03.2019	<p>For the Applicant : Mr. M.N. Roy, Learned Advocate.</p> <p>For the Respondent : Mr. S.K. Mondal, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents for fixation of pay of the applicant after restoration of annual increment of the applicant on expiry of the period of punishment imposed by the disciplinary authority.</p> <p>The applicant is a Constable of police working in the establishment of respondent no. 3, Deputy Commissioner of Police (Headquarters), Police Commissionerate at Bidhannagar. The departmental enquiry was started against the applicant on the allegation of gross negligence and utter callousness during discharge of duty on June 25, 2013. He was also placed under suspension during the period from June 25, 2013 to February 6, 2014. On February 24, 2014, the disciplinary authority imposed punishment on the applicant by withholding increment of pay for a period of two years without cumulative effect and by giving specific direction for commencement of the period of punishment of withholding increment w.e.f. July 1, 2013. The disciplinary authority also held in the order of punishment that the period of suspension of the applicant from June 25, 2013 to February 6, 2014 is confirmed, so that the applicant will not be entitled to get</p>	

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anything more than what he has already received during the period of suspension.

With the above factual matrix, Mr. M.N. Roy, Learned Counsel for the applicant, contends that the period of withholding increment of the applicant for two years started on July 1, 2013 and ended on June 30, 2015. Mr. Roy submits that the applicant is entitled to get the increment of previous two years at a time on July 1, 2015, whereas the said increment of two years was restored in favour of the applicant on July 1, 2016. The grievance of the applicant is that the basic pay of the applicant was not fixed on July 1, 2015 by restoration of two annual increments. On the other hand, Mr. Mondal, Learned Counsel representing the state respondents, submits that the punishment of withholding increment for two years cannot be with retrospective effect from July 1, 2013 and as such the period of punishment imposed on the applicant on February 24, 2014 will expire on June 30, 2016 and as such the fixation of pay of the applicant by restoration of three increments is rightly done on July 1, 2016.

Having heard Learned Counsel representing both parties and on consideration of the order of imposition of punishment by the disciplinary authority, we find that the disciplinary authority has specifically observed that the period of punishment of withholding increment for two years without cumulative effect will be effective from July 1, 2013 and expire on June 30, 2015 and thereby two increments withheld by way of punishment should

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have been restored to the applicant on July 1, 2015. The state respondents cannot be permitted to take a stand in contravention of the order of punishment imposed by the disciplinary authority when the order of the disciplinary authority has not been challenged before the higher forum and attained finality.

In view of our above findings, we are constrained to hold that the state respondents were not justified in denying restoration of increments of the applicant w.e.f. July 1, 2015. The basic pay of the applicant should be fixed by way of restoration of two increments which were withheld on July 1, 2015 and the applicant is entitled to get arrears of salary by way of refixation of pay w.e.f July 1, 2015. Accordingly, the respondent no. 3, Deputy Commissioner of Police (Headquarters), Bidhannagar Police Commissionerate is directed to refix the basic pay of the applicant on July 1, 2015 by way of restoration of two increments which were withheld by imposition of punishment within a period of 12 (twelve) weeks from the date of communication of the order and take necessary follow up action within a period of 8 (eight) 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)

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