

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson and Member (J).

Case No. CCP – 43 of 2022 (OA – 531 of 2019)

Dr. Anil Kumar Gupta - VERSUS – Sri Dr. Siddhartha Niyogi, Director of Health Services, Govt. of W.B. & Others

Serial No. For the Applicant : Mr. G. Singh,
and Advocate

Date of order

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30.08.2022

For the Contemnor : Mr. S.N. Ray,
O.P.(s) Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536 – WBAT / 2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant application has been filed being aggrieved with non-compliance of the order dated 02.12.2021, whereby the following order was passed:

“As per the applicant, after regularising the leave of the applicant, the respondent authority has to fix his pay. The counsel for the applicant has drawn our attention to the aforesaid letter dated 18.09.2018 and has submitted that though his pay has already been fixed by Dy. Director of Health Services (Admn.) vice Memo dated 16.02.2018. However, it has not been implemented due to the objection of the Treasury. Therefore, Superintendent, Raghunathpur S.D. Hospital, Purulia had asked for necessary sanction/approval from the Director of Health Services, West Bengal vide letter dated 18.9.2018. However, till date neither any

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communication has been made nor his pay has been properly fixed.

The counsel for the respondent has admitted that the decision on the part of the Director of Health Services is still awaited. Therefore, no payment could be made to the applicant.

During the course of hearing, the counsel for the applicant has submitted that it would suffice his purpose if the Director of Health Services, West Bengal would take final decision and make payment thereof within a stipulated period of time. The counsel for the respondent has no objection to such proposal.

In view of the above, Respondent No. 3, Director of Health Services, is directed to take final decision with regard to fixation of pay of the applicant and make payment thereof and communicate his decision by way of reasoned and speaking order within a period of eight weeks from the date of receipt of the order. Accordingly, both the MA & OA is disposed of.”

During the course of the hearing, the counsel for the Contemnor has placed one order dated 17.06.2022, which is forwarded to the applicant vide letter dated 22.06.2022. However, the counsel for the applicant has submitted that no reasoned order has ever been served upon the applicant. Therefore, during the course of the hearing, the counsel for the Contemnor has served copy of this order to the applicant.

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Heard the parties and perused the order. It is note that Director of Health Services has passed the following order:

“And whereas, it is pertinent to this regard that the applicant’s salary for the period of 08.11.2011 to 31.01.2018 has already been disbursed vide the office of the Superintendent. Raghunathpur Sub-Divisional Hospital, Purulia memo no. SDH/RNP/55 dated 18.01.2022.”

Now, therefore, after careful consideration of the entire gamut of the case, the matter of payment is to be fixed on the basis of the order dated 12,04.2022 by which the applicant’s unauthorized leave was partly regularized as per law and with adherence to the principles of natural justice. The applicant is debarred from receiving any payment during the period for which his service has been ordered as Dies-non whereas he is entitled to get payment only of the days of his permissible leave as guaranteed in the order. The DDO, Raghunathpur SD Hospital, Purulia is directed to disburse the payments as per the above findings.

The matter is thus disposed of.”

From the perusal of the above order as well as order dated 02.12.2021 passed by this Tribunal, it is noted that the Superintendent, Raghunathpur S.D. Hospital, Purulia had asked for necessary sanction / approval from the Director, Health Services vide his letter dated 18.09.2018 with regard to the fixation of pay of the applicant for the period from 08.01.2011 to 01.07.2018. However, the Director of Health Services did not consider his pay for the period from

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08.01.2011 to 01.07.2018 but made comments for the erstwhile period. Therefore, I am not satisfied with the reasoned order passed by the Director, Health Services dated 17.06.2022.

However, the counsel for the Contemnor has prayed for one accommodation to take appropriate steps. Prayer is allowed. Respondents are directed to communicate the order of fixation of pay of the applicant from 08.01.2011 to 01.07.2018 and make payment and file compliance report by the next date.

Let the matter be listed on **03.11.2022** under the same heading.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)

A.K.P.