

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).

Case No. – CCP 24 of 2024 (OA 55 of 2023).

PRATIP RUDRA - VERSUS- SHRI SURENDRA GUPTA, I.A.S., PRINCIPAL SECRETARY TO THE GOVT.OF W.B. DEPARTMENT OF PUBLIC HEALTH & ENGINEERING.

Serial No. and
Date of order

01
25.6.2024

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Advocates.

For the Contemnor Opposite Party : Mr. G.P. Banerjee,
Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Affidavit of service filed be kept on record.

This contempt application has been filed alleging violation of this Tribunal's order dated 19.4.2023 in OA 55 of 2023. The impugned order which supposedly violated this Tribunal's direction being Memo No. 7790 dated 11.6.2024 was issued by the Chief Engineer (HQs), P.H.E. Directorate. In the order passed by this Tribunal in OA 55 of 2023 dated 19.4.2023, the respondent authorities – the Principal Secretary, Department of Public Health Engineering was directed not to take any coercive action against the applicant. In the Original Application, the applicant had prayed for setting aside the entire disciplinary proceedings initiated against the applicant which culminated in the final order dated 14th December, 2022 imposing punishment of reduction of pay by five stages lower in the pay band for a period of next five years. Submission of Mr. Roy, learned counsel for the applicant is that by issuing the impugned memo 7790 dated 11.6.2024, the Department has violated the direction of this Tribunal in OA 55 of 2023. The impugned memo 7790 issued by the Chief Engineer (Headquarters) relates to fixation of pay of the applicant in terms of the Final Order no. 4181 dated 14.12.2022. The existing basic pay of Mr. Rudra at Rs. 1,42,700/- was reduced and revised to Rs.1,38,500/- downwards till the fifth negative increment of Rs. 1,23,100/-. Submission is that by acting on the

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punishment imposed in the Final Order of the Principal Secretary, the Chief Engineer (HQs) has violated the direction of this Tribunal. It is recalled that in the main matter this Tribunal had directed the respondent authorities not to take any coercive action against the applicant till the disposal of the case.

Appearing on behalf of Mr. Surendra Gupta, I.A.S, alleged contemnor – the Principal Secretary of the Department, Mr. Banerjee, learned counsel submits that Mr. Gupta, as the alleged contemnor in this application was not himself aware of such impugned order which has been passed by the Chief Engineer (HQs) without his explicit approval. Mr. Banerjee points out that the solemn direction of this Tribunal not to take any coercive action against the applicant has been complied by him, both in letter and spirit.

Having heard the submissions of the learned counsels and on examination of the impugned memo dated 7790 dated 11.6.2024 by the Chief Engineer (HQs), it is clear that despite specific and clear direction of this Tribunal in OA 55 of 2023, an order has been passed in complete disregard, by lowering five stages of the pay band of the applicant for five years. It is unfortunate that the meaning of the word “coercive” has not been properly comprehended by the Chief Engineer. Suffice it to say that “coercive” action includes not only the stay of the operation of the impugned Final Order, but having wider ramification, it also includes any type of unconsented action against the employee. The very word “coerce” has more impact than the word “Stay”. By directing the respondent authorities not to take any coercive action, it not only meant stay of the operation of the Final Order, which included lowering reduction of the pay band, but it also meant no further action to be taken against the applicant, till disposal of this case.

Since by such impugned order No. 7790 dated 11.6.2024, the Tribunal is satisfied that its direction has been flouted, the Tribunal is compelled to quash this impugned order and it is quashed and set aside.

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With such quashing and setting aside the impugned order, this contempt proceeding is dropped and the contempt application is disposed of.

(SAYEED AHMED BABA)
Officiating Chairperson and Member (A).

Skg.

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