

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL
Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : **HON'BLE JUSTICE SOUMITRA PAL,** **HON'BLE CHAIRMAN.**

Case No. – MA 120 of 2021 (OA 127 of 2018).
GOUTAM CHAKRABORTY –VS-THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. G. P. Banerjee, Mr. A. Khan, Advocates.
<u>4</u> 25.4.2022	For the State Respondents	: Mrs. S. Mitra, Advocate.

The matter is taken up by the single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under section 6 (5) of the Administrative Tribunals Act, 1985.

The application being MA 120 of 2021 is taken up for hearing. Since the records of OA 127 of 2018 are before the Tribunal at the time of hearing, Mr. G.P. Banerjee, learned advocate for the applicant submits that it may be taken up for hearing along with the Miscellaneous application to which Mrs. S. Mitra, learned advocate for the State respondents in her usual fairness does not oppose.

It appears that in the original application, the applicant has prayed for several reliefs, the relevant portion of which is as under :-

“ i)....To direct the respondents authorities particularly the District Magistrate, North 24-Parganas, to grant the applicant the applicant's full salaries for the period of the applicant's suspension from service and also to the withdrawal of the said suspension less the subsistence allowances drawn by the applicant during the pendency of the suspension and the increments, on and from 6.6.2007 uptodate, the enhancement of the emoluments after implementation of the VI-th Pay=commissions recommendation and also the career advancement Scheme benefits forthwith;

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ii) To direct the respondents authorities to pass an order to the representation of the respondents dated 15.01.2016 and 17.03.2017 without any delay...;

It appears that the departmental proceeding was initiated against the applicant wherein an order was passed by the District Magistrate, South 24-Parganas, the relevant portion of which is as under :-

“.....After due consideration of the reports as submitted by Inquiring Authorities, I hereby hold that the incumbent Sri Goutam Chakraborty is exonerated from the Article of Charges-I,II,III,IV and V.

However, from the Reports of Inquiring Authority it is quite clear that the Cash Books were not written regularly by the Cashier and such conduct in part of Sri Goutam Chakraborty, Cashier cum Storekeeper indicate negligence of duty.

Hence, as provided for under Rule 11 of the West Bengal Services (Classification, Control and Appeal) Rules' 1971 I do hereby order that Sri Cashier cum Storekeeper be censured under Rule 8(i) of the same Rule for such omission.

District Panchayat & Rural Development Officer, North 24-Parganas is hereby directed to take necessary action for implementing the above noted order immediately.

Let a copy of this order be served to all concerned...”.

It appears that the applicant, implicated in GR case No. 886 of 2007 T.R. no. 193/08 State –versus- Goutam Chakraborty, was acquitted by a judgement dated 4th February, 2017 by the Judicial Magistrate, 1st Additional Court, Basirhat, a copy of which is annexed to the original application.

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Against the departmental proceeding, the applicant preferred an appeal, which was disposed of by an order dated 31st July, 2019 passed by the Additional Chief Secretary, P & R.D. Department, the relevant portion of which is as under :-

“...Considering all evidential circumstances, and examining the documents under submission I do hereby Order under Rule 19(b)(ii) of West Bengal Services (Classification, Control and Appeal) Rules, 1971 that delay of 688 days in filing appeal petition be condoned. Shri Chakraborty will be paid full salary during his suspension period minus the suspension allowances drawn by him subject to verification of Non-drawal of payment and suspension period be treated as full duty...”

It is submitted by Mr. Banerjee that though the applicant has been acquitted in the criminal proceedings and exonerated in the departmental proceeding, as the entire period of suspension was treated as full duty, the admitted amount of Rs. 2,70,118/- be released. Since it is also evident that orders have been passed, as evident from pages 16 and 17 of the Miscellaneous application, for re-fixation of pay, appropriate order may be passed.

Mrs. S. Mitra, learned advocate for the State respondents submits that though it is an admitted position that the applicant has been acquitted in the criminal proceedings and has been exonerated from the charges in the departmental proceedings and orders directing re-fixation of pay have been passed, and the entire period of suspension has been directed to be treated as full duty, the sum of Rs. 2,70,118/- may not be directed to be released till it is scrutinised.

Having heard the learned advocates for the parties and considering the facts and circumstances of the case, the miscellaneous

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application being MA 120 of 2021 and OA 127 of 2018, treated as on day's list, are disposed of by directing the District Magistrate & Collector, North 24-Parganas, Barasat, - the respondent No 3 to release the amount of Rs. 2,70,118/- and other benefits to the applicant after scrutinising the records within a period of fifteen weeks from the date of presentation of a copy of this order.

(SOUMITRA PAL)
CHAIRMAN.

Skg.

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