

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member

Case No. – OA 251 OF 2023

MD. AMIR HOSSAIN MOLLA - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	:	Mr. Arjun Mukherjee, Mrs. Sunita Agawal, Advocates
<u>2</u>	For the State Respondents	:	Mr. Asok Kumar Das Sinha, Advocate
02.08.2023	For the Public Service Commission, West Bengal	:	Mr. Saurav Bhattacharjee, 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.

On consent of the learned counsels for the parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the entire departmental proceedings including the final order passed by the Disciplinary Authority on 07.02.2023. The final order imposed a punishment of lowering of two stages of current Pay Band for the period of two years under Rule 8 (iv) of WBS(CCA) Rules, 1971.

Submitting on behalf of the applicant, Mr. Arjun Mukherjee, learned advocate for the applicant submits that the disciplinary authority failed to adhere to laid down Rules and procedures in completing this departmental proceeding. To him, the Disciplinary Authority has made serious procedural lapses which resulted in denying the natural justice to the applicant. To be specific, Mr. Mukherjee submits that a particular circular of the P.W.D. relating to the kitchen expenses was not produced before the inquiry.

Mr. Mukherjee also refers to Article of Charge- II in which the charged officer was found guilty of purchasing three plots of land without obtaining

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permission from his appointing authority. Submission is that from letter dated 23.02.2021 addressed by the Deputy Director of Agriculture, Murshidabad to the Additional Director of Agriculture (Admn), it is evidently clear that the applicant had sought permission to purchase these assets prior to acquisition. Therefore, by not considering this important information of the Deputy Director relating to the permission to purchase the assets, the Disciplinary Authority has not only ignored this vital information but by such ignorance has erred and made serious lapses in the disciplinary proceedings against the charged officer. Therefore, this entire departmental proceeding including the charges and the final order of punishment is not maintainable since there has been serious procedural lapses.

Heard in part above submissions of Mr. Mukherjee.

Let the matter appear under the heading "Hearing" on 12.10.2023.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON
and MEMBER (A)

SCN.

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