

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 154 OF 2022

SAMAR BHATTACHARYA - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr. Swapan Kumar Nandi, Learned Advocate
	For the State Respondents	:	Mr. Manujendra Narayan Roy, Learned Advocate
<u>10</u> 05.02.2025	For the Respondent No.5	:	Mr. Gautam Pathak Banerjee, Learned 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.

The prayer in this application is for a direction to the respondent authorities for setting aside the impugned appellate order dated 28.12.2020, passed by the Appellate Authority and communicated to the applicant vide memo dated 15.02.2022 rejecting the appeal. After conclusion of the disciplinary proceedings, the Inspector General of Police (Law & Order) holding the additional charge of Inspector General of Police (Headquarters), being the Disciplinary Authority, passed the Final Order upon the applicant, Samar Bhattacharya, a Circle Inspector of Police, attached to Hooghly Rural District. The Final Order imposed punishment of reduction to the rank of Sub-Inspector of Police as well as confirmed the period of suspension from 18.11.2008 to 29.04.2010. Against this, the applicant preferred an appeal before the Additional Chief Secretary, Home and Hill Affairs Department. The Additional Chief Secretary, Home and Hill Affairs Department, in its order dated 28.12.2020, did not accept such an appeal on the ground that in terms of Regulation 882 of Police Regulations of Bengal, 1943, it is the Hon'ble Governor, who is the Appellate Authority. Accordingly, the applicant preferred another appeal addressing His Excellency, the Hon'ble Governor of West Bengal on 09.10.2018. By the same order dated 28.12.2020, the Additional Chief Secretary, Home and Hill Affairs Department rejected the appeal on the ground that such an appeal was not filed within 37 days from the date of receipt of the Final Order. It has been pointed out now by the learned counsels that, in the meanwhile, by a notification dated 29.07.2019,

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the Governor as the Appellate Authority has been substituted with the State Government after amending Regulation 882 of Police Regulations of Bengal, 1943.

Attention of the Tribunal has been drawn to a copy of the representation dated 28.10.2015, filed by the applicant as the charged officer, addressed to the Additional Chief Secretary, Home and Hill Affairs Department, praying for review of the Final Order passed by the Disciplinary Authority. Submission of Mr. Nandi is that the respondent No.1, the Additional Chief Secretary, Home and Hill Affairs Department may be directed to consider this representation.

It has become clear from the submissions and the records that, though the charged officer, the applicant, had filed an appeal on 28.10.2015, it was addressed to the Additional Chief Secretary, Home and Hill Affairs Department, who was not then the Appellate Authority. Later, after being informed, the applicant preferred a new set of appeal addressed to His Excellency, the Hon'ble Governor of West Bengal. But this appeal dated 09.10.2018 was clearly outside the 37 days of time required to file such an appeal after the Final Order was passed. The Final Order passed on 07.09.2015 was communicated to the applicant on 10.09.2015. In terms of the Regulation 882 of the PRB, 1943, the charged officer could file an appeal before the Appellate Authority within 37 days from the date of passing of the final order. In this case, as stated above, such an appeal before the Appellate Authority, His Excellency, the Hon'ble Governor of West Bengal, in terms of notification 371 dated July 30, 2019, was filed belatedly on 09.10.2018. Thus, such an appeal was not a valid appeal and, therefore, does not merit any consideration. Based on the above observation, this application is disposed of without passing any orders.

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

SCN.