

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. OA – 245 of 2023**

**Dr. Swapnajit Saha - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No.	For the Applicant	: Dr. Swapnajit Saha,
and		(in person)
Date of order	For the Respondents	: Mr. Sankha Ghosh,
5		Learned Advocate
19.02.2025	For the Public Service Commission, W.B.	: Mr. Sourav Bhattacharjee, 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 dated 23<sup>rd</sup> 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 setting aside the impugned final order imposing a punishment of withholding of two increments (without cumulative effect) issued by the respondent department on 20.01.2023.

Dr. Saha appears in person questioning the very legality of the final order passed on him and submits the following points-

The charges framed against him were that during 07.12.2019 to 29.12.2019, he had deliberately posted messages in social media and such messages would have led to disharmony between different religious communities of the society. Dr. Saha though not disagreeing that he had posted some messages in social media, however, submits that these were in his personal capacity and not related to his official duty. Further, Dr. Saha points out that Rule 3(1) and 3(2) of West Bengal Services (Duties, Rights and Obligations) Rules, 1980 relied on by the Disciplinary Authority does not relate to the charges framed against him. The 'facebook' comment(s)/share(s)/posting(s) since long enjoyed by the applicant is his fundamental right and does not come under the preview of any 'public duty' and nor paid any fees paid or commissions by the Government for the such postings.

Responding on the State's side, Mr. S. Ghosh, learned counsel makes the following submissions:

Rule 3(2) of West Bengal Services (Duties, Rights and Obligations) Rules, 1980 makes it clear to all the Government employees that they shall "rise above all personal, political and other considerations and maintain integrity, impartiality and devotion to duty." By expressing his views in the open social media, such views threatened the

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social fabric of the society and could have created serious law and order problem. Dr. Saha, being a senior and responsible Government officer violated this provision of the Rule.

Mr. Ghosh also cites Rule 3(1) of the said Rules mentioned above and submits that being a Government employee, though having democratic rights does not mean that he would speak or act in such a manner which would lead to communal disharmony and ill-feeling amongst different communities of the State. By posting such messages in open public domain, Dr. Saha not only violated the Rules which he was bound to follow but also threatened the very multi-cultural foundation of the society.

Finally, Mr. Ghosh concluded his submissions stating that the entire departmental proceedings was conducted strictly in accordance with the Rules and procedures and the applicant as the charged officer was given proper and full opportunity to participate and he participated.

Mr. Sourav Bhattacharjee, learned counsel for the Public Service Commission, West Bengal has submitted that the Commission after considering all the aspects of the proposal gave its advice as per the established Rules.

Having heard the submissions of the learned counsels and after examination of the records in this application, including the reply filed by the State respondents and the rejoinder to it filed by the applicant, the Tribunal has observed the following :-

- (1) The facts of the applicant having posted messages in social media / facebook, have not been disputed. In fact, it is clear that the applicant not only agrees but gives justification for such action.
- (2) The disciplinary authority viewed these messages as sensitive and disruptive to cause serious communal disharmony which may result in law and order problems. Whereas the applicant views it as his democratic right to ventilate his thoughts in front of the larger public through social media.
- (3) The disciplinary authority considered posting of such messages in the social media as advocacy to spread hatred between different religious communities. However, the charged officer contests that such apprehension of the State authorities is not correct by stating that no communal strife took place in the

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district or elsewhere due to his messages.

A close reading of the messages by the Tribunal has left an impression that these messages are undoubtedly very sensitive in nature and pose a threat to the secular fabric of this country. It is a matter of serious concern that an official of the Government who is designated as Deputy Magistrate and Deputy Collector, having the primary responsibility to maintain law and order in the district himself propagates messages before the public at large having serious repercussions. The post of a Deputy Magistrate and Deputy Collector is to assist and guide the district police authority to maintain communal harmony and law and order. It is not expected that a district official has not only ignored his basic official duty but has rather violated the same by posting disparaging comments against a particular community. The contention of the applicant is that such messages did not lead to any communal flare up is also not a valid argument. We, as individuals and citizens of this country may have differing thoughts and beliefs but as good citizens it becomes our bounden duty not to broadcast such feelings openly. Such thoughts and beliefs be best if kept within oneself. More so with a Government employee holding a post of Deputy Magistrate and Deputy Collector. As a Government employee and holding such a responsible post one has to be careful in propagating such thoughts in the public domain. The rules governing the conduct of a Government employee as stipulated in the Rule 3(1) and 3(2) of West Bengal Services (Duties, Rights and Obligations) Rules, 1980 makes it abundantly clear that being a Government servant he will not only discharge his duties properly but also “rise above all personal, political and other considerations and maintain integrity, impartiality and devotion to duty”.

Observing the above points, the Tribunal has come to this finding that the applicant, Dr. Swapnajit Saha, a Deputy Magistrate and Deputy Collector has violated the rules in 3(1) and 3(2) of West Bengal Services (Duties, Rights and Obligations) Rules, 1980 by posting such sensitive messages in Facebook, a popular social media. Therefore the final order imposing a punishment of withholding two increments (without cumulative effect) under Rule 8(ii) of the West Bengal Services (C.C & A) Rules, 1971) were correct and very well within the legal framework of the law

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governing conduct of a public servant. Therefore, the prayer of the applicant in this application for setting aside the impugned final order No. 14-P&AR(Vig.) dated 20.01.2003 does not have any merit and is disposed of without passing any orders.

**SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P.