

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. – OA-284 of 2021

Subhendu Mandal - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr. S. Roy Chowdhury Learned Advocate.
	For the State Respondent		None.
<u>02</u> 21.04.2021	For the respondent No. 2		Mrs. Sunita Agarwal, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24.12.2020 issued in exercise of the power conferred under Sub-Section (6) of Section 5 of the Administrative Tribunal Act, 1985.

Mrs. Sunita Agarwal, learned advocate appearing on behalf of D.M. North 24 Pgs. has asked for some time to take instruction from her client.

The counsel for the applicant has submitted that the earlier order of suspension was quashed by the Tribunal with the following observation :-

“Heard both the parties and perused the records as well as rules. It is noted that there is no such provision i.e. Rule 7(3) under WBS (DCRB) Rules, 1971 to suspend any delinquent officer. Therefore, admittedly the applicant was suspended under wrong rule which cannot sustain. However, it is also observe that the applicant was suspended on a serious charge that he was detained beyond 48 hours in custody as well as two criminal cases are pending against him.

In view of the above, I quash and set aside the impugned order dated 25.03.2019 on the ground of quoting the wrong rule and direct the respondents to allow the

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applicant to join. However, the respondent would be at liberty to take appropriate steps in accordance with law and rules with regard to suspension.

Accordingly, the OA is disposed of with no order as to cost.”

In view of that, the applicant was supposed to be allowed to join in the service.

As per the applicant though the order was passed on 19.03.2021 i.e. on Friday and in the meantime intervening Saturday & Sunday are holidays but on Monday 22.03.2021, he was served with a fresh copy of suspension order without allowing him to join the duty first. Therefore, according to him if he would not be allowed to join the duty then the direction of the order dated 19.03.2021 would be irrelevant and ineffective. Therefore, being aggrieved with the action of the respondents he has filed the instant application.

However, the counsel for the respondent No 2 has submitted that she had already communicated the said order verbally to the respondents; however, she will take appropriate instruction by the next date. Prayer is allowed. The respondents are directed to take instruction. Let the matter be listed for admission hearing on 16.06.2021.

URMITA DATTA (SEN)
MEMBER (J)

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