

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-335 of 2020

Dr. Kamalesh Bhattacharya - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy Learned Advocate.
<u>03</u> 24.02.2021	For the State Respondent	: Mr. G.P. Banerjee 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.

The instant application has been filed mainly praying for following reliefs:-

- 1) An order do issue setting thereby aside/quash the Memorandum No. Health/F/O/GA (Vig.)/340/9A-105/94 dated 20.06.1995 as well as Suspension Order No. Health/F/O/GA (Vig)/342/9A-105/94 dated 20th June, 1995 issued by the then Principal Secretary, Department of Health & Family Welfare, Government of West Bengal being the Respondent No. 2 immediately as more than 25 years in the meantime has lapsed and the applicant is at his verge of retirement.
- 2) An order do issue directing the concerned respondent authorities to forthwith allow your applicant to resume his duties with full salary and arrear pay and allowances immediately after setting aside the Memorandum No. Health/F/O/GA

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(Vig/340/9A-105/94 dated 20.06.1995 as well as Suspension Order No. Health/F/O/GA (Vig)/342/9A-105/94 dated 20th June, 1995 issued by the then Principal Secretary, Department of Health & Family Welfare, Government of West Bengal, being the Respondent No. 2.

- 3) An order do issue thereby directing the respondent authorities to dispose of the representation dated 14.02.2020 by passing a reasoned order within a stipulated time period after giving an opportunity of hearing to the applicant.
- 4) An order do issue directing the concerned respondent authorities to transmit all the records pertaining to the instant application so that conscionable justice can be administered.
- 5) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the interest of the applicant.

As per the applicant, he was put under suspension on 20.06.1995 (Annexure-A) and on the same day he was also charge sheeted. Thereafter no steps have been taken with regard to the charge sheet though he has been paid subsistence allowance till 2019.

The counsel for the applicant has also referred the case of Prem Nath Bali Vs. Registrar, High Court of Delhi & Another reported in (2015) 16 SCC 415 has referred the

paragraph 28 of the said judgement, which is as follows :-

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“Keeping these factors in mind, I am of the considered opinion that every employer (whether State or Private) must make sincere endeavour to conclude the departmental enquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

The counsel for the respondent has submitted that he has no objection if the authority would be directed to conclude the disciplinary proceedings within a stipulated period of time and also to take decision with regard to suspension of the applicant.

Heard the parties and perused the records. It is noted that the applicant was suspended on 20.06.1995 and he has been paid subsistence allowance only up to 2019 and in the meantime no review has been made with regard to continuation of the suspension though the charge sheet was issued on 20.06.1995 but till date the said disciplinary proceedings has not been concluded.

In view of the above, Respondent No. 2 is directed to conclude the disciplinary proceeding within a period of six months as the disciplinary proceeding is pending since 1995. The Respondent No. 2 is further directed to review the case of the

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suspension of the applicant, making payment of subsistence allowance within a period of four weeks from the date of receipt of the order and to communicate the decision with regard to the suspension within six weeks by way of reasoned and speaking order within a period of six months from the date of receipt of the order otherwise the charge sheet would be vitiated. Accordingly, OA is disposed of with the above observation and direction.

URMITA DATTA (SEN)
MEMBER (J)

SC