

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. OA – 986 of 2016

Dr. Sunil Chakrabarti - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. G.P. Banerjee,
and Advocate

Date of order

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15.09.2022

For the State Respondents : Mr. S. N. Ray,
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536 – WBAT / 2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant application has been filed praying for following reliefs:

“a) A direction do issue upon the concerned respondent authorities, particularly upon the Joint Secretary, Department of Health and Family Welfare, Vigilance Branch, Government of West Bengal, the respondent no. 2 herein to forthwith set aside/ cancel/ rescind/ quash/ withdraw the impugned Final Order dated 03.03.2016 passed by him by Order of the Governor under Memo. No. HF/O/Vigilance/1589/9A-11/2013 in connection with the departmental proceeding initiated against the applicant under Memo. No. HF/O/Vigilance/273/9A-11/2013 dated 21.03.2013 together with the entire departmental proceeding, both being Annexure-‘A’ and ‘D’ herein and to command them to act strictly in accordance with law;

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b) A direction do issue upon the concerned respondent authorities to produce and / or cause to be produced the entire records relating to the applicant's case and on such production being made, render conscionable justice upon perusing the same;

c) And/or to pass such other or further Order or Orders as to this Hon'ble Tribunal may deem fit and proper.”

However, during the course of the hearing, the counsel for the applicant has specifically submitted that the Final Order has been passed in violation of the order dated 01.02.2022 as held by this Tribunal. Further from the perusal of the Inquiry Report, it would be evident that no presenting officer was there to proof the charges against the applicant. Therefore, the Inquiry Report also vitiated by not following provisions of Law. Therefore, he has prayed for quashing of both the Inquiry Report as well as Final Order. The counsel for the applicant has referred for following judgements and has prayed for extension of benefit of the said judgements dated 26.07.2021 passed in O.A. No. 28 of 2008 (Md. Obaidulla Sk –Vs- State of West Bengal & Others) and another order dated 01.02.2022 passed in O.A. No. 342 of 2021 (Dr. Samar Kanti Kayal –Vs- State of West Bengal & Others)

The counsel for the respondent has submitted that the disciplinary authority had passed his order as per Rules. However, no reply has been filed till date though it is the case of 2016.

I have heard the parties and perused the records. From the perusal of the Inquiry Report, it is observed that the Inquiry Authority had come to his findings on the basis of some documents procured by him from different sources.

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However, there is no mention of any Presenting Officer or witnesses even such allegation has not been denied by the respondent.

Therefore, in my opinion, the inquiry proceeding have been vitiated for not following provisions of Rules. Further, I have perused the Final Order dated 03.03.2016, whereby the respondent has imposed following punishment:

“NOW, THEREFORE, in exercise of power conferred by sub-rule 14 of rule 10 of the West Bengal Services (Classification, Control & Appeal) Rules, 1971, the Governor has been pleased to order that penalty of “Reduction of pay in a lower stage in the existing time scale of pay for period of 2 (two) years during which the incumbent will not earn any increment and on expiry of such period the reduction will not have the effect of postponing the future increment(s) of his pay” under rule 8(iv) of the West Bengal Services (Classification, Control & Appeal) Rules, 1971 be imposed upon Dr. Sunil Chakraborty.

The Governor has further been pleased to direct that the said Dr. Sunil Chakraborty, be debarred from promotion during the currency of the penalty and such debarment should not be treated and imposed as a penalty.”

I have gone through the Final Order as well as judgements passed by this Tribunal and it is noted that the applicant has been imposed with the punishment of reduction of pay to a lower stage for a period of two years with future effect. However, along with the said punishment, he has been also imposed with the

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punishment of debarring from promotion. Therefore, in my considered opinion, the case of the applicant is squarely covered by the aforesaid order dated 26.07.2021 & 01.02.2022.

In view of the above, I quash and set aside the inquiry report dated 11.07.2013 as well as the Final Order dated 03.03.2016 and remand back the matter to the Inquiry Authority with a direction to him to conduct the inquiry as per provisions of Law and Rules and further the Disciplinary Authority is directed to conclude his disciplinary proceedings and communicate his decision by way of a reasoned and speaking order within a period of six months from the date receipt of the order.

Accordingly, the O.A. is disposed of with the above observation and direction with no order as to costs.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)

A.K.P.