

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 102 of 2020

Bijan Mandal -- VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. A.K. Niyogi, Learned Advocates.
<u>07</u> 26.03.2021	For the Respondents	: Mr. M.N. Roy, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020, issued in exercise of the powers conferred under sub section (6) of Section 5 of the Administrative Tribunals Act, 1985.

During the course of the hearing, the counsel for the applicant has submitted that he is not pressing the prayer for re-fixation and revision of scale of pay of the applicant as per ROPA, 2019 as it has no connection with the prayer of the instant application. Prayer is allowed. The counsel for the applicant is directed to delete the said prayer in paragraph 7 in the course file as well as in the copy of the counsel for the respondents.

Both the MA and OA are heard today.

In the instant OA, the applicant has challenged the suspension order dated 01.02.2017, whereby the applicant was put under suspension though not by any formal suspension order but by a radiogram message, he was communicated his suspension order in terms of Rules No 880 and 881 of PRB/Volume-I 1943 and Rule no. 70 of WBSR Part I. However, thereafter he was paid subsistence allowance up to 30.05.2017. He has not been paid subsistence allowance thereafter but neither his suspension was reviewed nor subsistence allowance was enhanced paid to him till today. In the meantime, the respondents have proceeded with the disciplinary proceeding, wherein the applicant duly participated and the enquiry officer have submitted his findings on 25.07.2017 before the disciplinary authority. However, till date no final order has been communicated to him. Therefore, the counsel for the applicant has prayed for quashing and setting aside of the suspension order as well as make payment of his subsistence allowance as per rules till date.

The counsel for the respondents has submitted that admittedly no review has been

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made and the final order has not been communicated to the applicant till date. However, with regard to the subsistence allowance he has no instruction.

Heard the parties and perused the record.

It is admitted fact that the applicant has only communicated with the suspension order dated 01.02.2017 through a radiogram message. However, subsequently no review as per rule and law had been done during this entire period. Even the enquiry report in the disciplinary proceeding has also been submitted before the disciplinary authority on 25.07.2017 and till date no final order has been communicated to the applicant. Even according to the applicant, his subsistence allowance neither has been paid nor enhanced till date, which has not been categorically objected to by the respondents. Therefore, I quash and set aside the suspension order dated 01.02.2017 and direct the authority to make payment of his arrears and subsistence allowance as per rules if not been paid and to allow the applicant to join immediately.

The applicant is also directed to co-operate with the respondents. Accordingly, **both the MA and OA are disposed of** with above observation and direction with no order as to cost.

Parties are directed to act upon the Website copy of the order.

Mrs. URMITA DATTA (SEN)
MEMBER (J)

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