

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

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

**Case No. – OA 1036 of 2014**

**MAZAHAR KHAN - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. S. Bhattacharjee  
and Advocate

Date of order For the State respondents : Mr. M.N. Roy &  
Mr. G. Halder  
Advocates

30  
15.12.2021

The instant application has been filed praying for following relief:

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- a) An order giving mandatory direction upon the respondent authorities to withdraw, recall and rescind the order dated 18.06.2014 passed by the Joint Commissioner of Police (Traffic), Kolkata the appellate authority arising out of order dated 23.05.2014 passed by the Deputy Commissioner of Police, Traffic Department, Kolkata Police in connection with the Departmental proceeding no.114 dated 17.09.2012.
- b) An order giving mandatory direction upon the respondent authorities to reinstate the applicant herein to his immediate post.
- c) An order giving direction upon the respondent authorities to pay the arrear due salary to the applicant from the date of his suspension till the date of reinstatement.
- d) To pass such other or further order or orders as your Honour may deem fit and proper.”

PKD As per the Applicant, he was served with a Show-Cause Notice dated 21.03.2014 with an allegation (Annexure-A1) that he took a sum of Rs. 20,000/- from one Sri Subhamay Patra on 21.03.2009 out of Rs.1,00,000/- with the false assurance of providing him a job of Constable in Kolkata Police. Further, he also took Rs.8,000/- from Sri Subhamay Patra for medical and physical test required for the job. Subsequently, the Applicant filed his reply against the allegation denying the charges. Thereafter, the Applicant took part in the Disciplinary Proceedings by examining and cross-examining the witnesses. Subsequently, the Disciplinary Authority had passed his final order dated 23.05.2014 imposing a punishment of dismissal from service with effect from 23.05.2014, against which the Applicant has preferred an appeal before the Appellate Authority. However, the Appellate Authority had rejected the appeal of the Applicant by confirming the order of the Disciplinary Authority vide order dated 18.06.2014. Being aggrieved with, the Applicant has filed the instant application.

As per the Applicant, from perusal of the allegation it would be evident that the agreement dated 21.03.2009 (Annexure A/5) has not been signed by the Complainants.

MAZAHAR KHAN  
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Further, it has been submitted by the Counsel for the Applicant that the Applicant had admitted that he had received money for providing job but not for the purpose of treatment of his wife. Therefore, he has prayed for setting aside of the final order dated 25.03.2014.

The Counsel for the Respondent has submitted that this is not the case of the Applicant that there is any violation of natural justice or the Applicant was not granted proper opportunity to place his case. It would be evident from the enquiry report that the Applicant was not able to prove his claim that the Applicant took money as a loan for the treatment of his wife rather he was not able to prove by producing any medical treatment documents of his wife. Further, the documents, as referred by the Applicant, need not be signed by the Complainant as this is a declaration made by the Applicant in the presence of the witnesses to take money for providing job or to pay back the same in default. Therefore, the Counsel for the Respondent has prayed for a dismissal of the instant OA.

We have heard both the parties and perused the records as well as the original files produced by the Respondents. It is noted that the claim of the Applicant is that so called agreement dated 21.03.2009 was not signed by the Complainant and whatever money he had admittedly taken from the Complainant is as loan and for the purpose of treatment of his wife. However, from the perusal of the document dated 21.03.2009, it is noted that it is not an agreement but a declaration made by the Applicant Sri Mazahar Khan in presence of two of witnesses, i.e., (i) Santa Naskar and (ii) Santu Bahadur. Therefore, there is no need of signature of the Complainant as it is a declaration made by the Applicant in the presence of two witnesses but also confirmed about the same in their deposition. From the perusal of the deposition of Mr. Subhamay Patra, it is noted that the Applicant took money to provide medical test to be conducted in the Kolkata Police Hospital, which the Applicant has himself enclosed in his application as Annexure A/4. Further, it has been noted that the Applicant never placed any supporting documents of his wife's medical treatment neither before the Authority not before this court to establish his claim that he had actually taken money for the treatment of his wife. It is further observed that, the Applicant has no other grievance with regard to any violation of natural justice or finding of the Disciplinary Authority. Therefore, we do not find any reason to interfere with the decision of the Disciplinary Authority. Accordingly, the OA is dismissed being devoid of merit.

PKD

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

Sayeed Ahmed Baba  
Member(A)

Urmita Datta(Sen)  
Member(J)