

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

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

**Case No. – OA-1100 of 2017**

**Mithun Dutta VERSUS – The State of West Bengal & Ors.**

Serial No. and Date of order	For the Applicant	:	Mr. S.N. Roy, Learned Advocate.
	For the State Respondents	:	Mr. G.P. Banerjee, Mr. S. Bhattacharjee, Learned Advocates.

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10.08.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11<sup>th</sup> February, 2022 issued in exercise of the powers conferred under Section 6 (5) of the Administrative Tribunals Act, 1985.

On consent of both the parties, matter has been taken up.

The instant application has been filed praying for following relief :-

- a) A direction upon the respondents to forthwith disburse 3 days salaries and allowances which was deducted from the pay of the applicant for the month of May, 2014;
- b) Issuance of any other order or orders and/or direction as this Hon'ble Tribunal may deem fit and proper.

As per the applicant while the applicant was attached to the office of the Sub-Divisional Controller, Food & Supplies at Burdwan, an administrative order was passed on 09.07.2013 (Annexure-A) distributing the work and responsibilities of the staffs whereby one Debasis Ghosal, U.D.C. was made in-charge of Kerosin Oil along with Lubricant oil section and the applicant was made in-charge of Kerosin Oil allotment. However, unfortunately, some licenses with regard to the Kerosin Oil was not traceable and as such the applicant and other persons were directed to search out those licenses but in spite of through search, some licenses could not be traced out. However, vide order dated 19.05.2014, the Sub-Divisional Controller, Food & Supplies passed an

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order for deduction of 3 (three) days salary and allowances for the month of May, 2014 (Annexure-B) and subsequently his three days salary was deducted for the month of May, 2014. Being aggrieved with, he made a representation on 21.08.2017 (Annexure-C). However, as he did not receive any response from the respondent's side, he filed the instant application on 11.12.2017.

As per the applicant, the punishment imposed under Rule 3(b) of W.B.S.R., Part-I, is not applicable in the instant case.

It has been submitted by the respondent that the applicant was show caused to submit return of Kerosin Oil for the period from July, 2011, to December, 2011 vide Memo dated 11.04.2014 and 08.05.2014. However, the applicant failed to submit any satisfactory explanation. Therefore, the competent authority, after following the principle of natural justice, has passed an order of the deduction of three days salary.

The counsel for the respondent has also raised the preliminary objection on the point of limitation as the said deduction of three days salary was made in the year 2014 and the applicant has been filed this application in the year 2017 only. Even no application for condonation of delay has been filed in this regard. On the contrary, in the paragraph 5 of this application, the applicant has submitted that the application within the period of limitation as prescribed under Section 21 of the Administrative Tribunal's Act, 1985, which is far from truth. Therefore, they have prayed for dismissal of the OA.

However, the applicant, in stead of filing any application for condonation of delay, has filed his rejoinder, wherein it has been stated that the respondent authority had deducted his three days salary without initiation of the Disciplinary Proceedings. It has been further submitted

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that the respondent authorities are sitting tight over the issue as the deduction of three days salary is a continuous cause of action. Therefore, the application is not barred by limitation.

Heard the parties and perused the records. Before going into the merit of the case, let the point of limitation be considered first as has been raised by the learned counsel for the respondents.

“ Section 21 of Administrative Tribunals Act, 1985 stipulates interalia :-

21. Limitation –(1) A Tribunal shall not admit an application,-

a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

b) in a case where an appeal or representation such as in mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

2) Notwithstanding anything contained in sub-section (1) where

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The application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), (or) as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.”

From the perusal of the submissions as well as records and documents, it is noted that the order of reduction of three days salary was passed on 19.05.2014, whereas the applicant had submitted his representation only on 21.08.2017 i.e. after more than three years.

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In the instant case, the applicant made a representation against such deduction only after more than three years before the authority on 21.08.2017 and had approached this Tribunal on 11.12.2017 i.e. within a couple of month. Further as the deduction of three days salary was made for the month of May, 2014, it cannot be a recurring cause of action, even he did not made any application for condonation of delay. Therefore, as per Section 21 of Administrative Tribunals Act, the instant application is hopelessly barred by limitation and I have no option to condone the delay as observed above. Accordingly, OA is dismissed being barred by limitation.

URMITA DATTA (SEN)  
MEMBER (J)

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