

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

**Case No. OA – 139 of 2022**

**Shila Sutradhar - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No.  
and  
Date of order  
5  
27.07.2022

For the Applicant : Mr. S.N. Ray,  
Advocate

For the State Respondents : Mr. D. Koley,  
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 354 – WBAT / 2J-15/2016 dated 18<sup>th</sup> May, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The instant application has been filed basically challenging the suspension order dated 17.12.2018 with following prayer:

**“ a) A mandatory direction do issue upon the concerned respondent authorities to dispose of the representation of the applicant dated 13.12.2021 and set aside/quash the suspension order and allowing the applicant to join her duties thereby disburse the permissible pay and allowances of the applicant including her subsistence allowance at the enhanced rate of 75% of her basic pay with effect from the period when it ought to have been granted after revision of the suspension.**

**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 after perusing them.**

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

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**d) To pass an interim Order directing the competent authority to make disbursement of the subsistence allowance of the applicant after its enhancement to 75% of her basic pay pending disposal of the instant Original Application.”**

As per the applicant, she was put under suspension under Sub-Rule 3 of Rule 7 of West Bengal Services (CCA) Rules, 1971 with effect from 26.10.2018. As per the applicant, prior to the date of such suspension order, she was granted bail as per the order of the Hon'ble High Court dated 07.12.2018 passed in C.R.M. No. 10940 of 2018. Though as per the Rules of the W.B.S.R. Part-I, the question of enhance of subsistence allowance should be reviewed within three months from the date of passing of the suspension order and even the applicant made representation to the authority on 04.04.2019, 13.12.2021 (Annexure A-3 collectively). However, till date neither her suspension order was revoked nor the said suspension order was reviewed by the authority by enhancing his subsistence allowance. Being aggrieved with, he has filed the instant application.

The learned counsel for the respondent though has admitted that no review has been made in the mean time due to the pendency of the criminal case.

I have heard the parties and perused the records. It is noted that the applicant was put under suspension on 17.12.2008, thereafter, neither suspension order was reviewed nor her subsistence allowance has been enhanced. Though Notification No. 9266-F9P) dated 16.11.2012 had clearly prescribed procedure stipulating, inter alia:

**“as per Rule 71(4) of the West Bengal Service Rules, Part-**

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I provides for a review of the subsistence allowance granted to an employee under suspension as well as the substantive question of suspension within three months from the date of suspension or deemed to have been placed under suspension. It has come to the notice of the government that though the subsistence allowance granted to an employee under suspension is reviewed by the competent authority within three months from the date of suspension as a matter of course, the substantive question of suspension remains un-reviewed.

2. After careful consideration

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(iv) A nominee of Finance Department - Member.

3. The Governor has further been pleased to lay down the following functions and procedure to be followed by the Review Committee so constituted.

A. Functions.

(i) The Review Committee shall review the cases of Officers/employees under suspension in order to determine whether there are sufficient grounds for continuation of suspension.

(ii) In every case the review shall be done within 90 (ninety) days from the date of order of suspension or deemed to have been placed under suspension, in a case where the period of suspension has been found to be prolonged, the next review shall be done within 180 (one

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**hundred eighty) days from the date of last review.**

**B. Procedure.**

**(i) The Review Committee, while assessing the justification for further continuation of any suspension, shall look into the progress of inquiry/investigation against the officer by obtaining relevant information from the authority inquiring/investigating into the charges.**

**(ii) The Review Committee, while examining a case, shall consider the possibility of tampering with the evidence and/or influencing the process of inquiry or investigation by the officer/employee under suspension.**

**(iii) The Review committee shall submit a detailed report clearly stating its recommendations including variation of the amount of subsistence allowance in terms of proviso to rule 71(1)(a) of W.B.S.R. Part-I and the reasons for arriving at such recommendations to the appointing authority concerned for considering further course of action.”**

From the above, it is noted that the aforesaid note has specifically provided provisions for first review within 90 days from the date of suspension and subsequent review after 180 days from the date of last review. Moreover, if the suspension would be considered to be proper to continue then subsistence allowance should be enhanced and in this regard review should be made within three months time from the date of issuance of the order. It seems that the authority neither reviewed the suspension order of applicant nor enhanced the subsistence allowance, which is contrary to their own Rules as well as Circulars.

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In view of the above, the respondent authorities are directed to review the order of suspension immediately and communicate his decision with follow up action within a period of four weeks from the date of receipt of the order. Accordingly, the O.A. is disposed with no order as to costs.

URMITA DATTA (SEN)  
MEMBER (J)

A.K.P.