

but no copy of such advise was given to the charged officer, thus, denying him the opportunity to submit his representation against the proposed punishment. In this regard, Mr. Roy, relies on an order passed by the Hon'ble High Court in WPST 2 of 2023 in the matter of the State of West Bengal & Anr. Vs. Basudeb Mukherjee. The relevant part of the above order is cited as under:

“So it is clear to us that recommendation of Public Service Commission has not been supplied to the respondent before passing an order of dismissal which is a clear violation of the provisions as referred above. The disciplinary authority failed to appreciate that before passing of the final order recommendation and the advice of Public Service Commission should be given to the delinquent respondent enabling him to submit his representation. Non-supply of the recommendations of the Public Service Commission being contrary to the requirements of the Service Rules, any further proof of prejudice was not required. Once the procedural Rule had been violated, prejudice would be presumed.”

In response to the above submissions, the learned Departmental representatives submit that it is not true that the charges were vague. On the contrary, the charges framed against the charged officer was very specific. As an instance, the Misc. petition bearing no. 1803/2004 vide registered deed no. 1629/2011 which was already rejected and closed by his predecessor, was reopened and its records altered by the charged officer. Such mischievous act was not only illegal but also violated existing norms and statute. This was deliberate negligence on part of the delinquent officer.

After hearing the submissions of the learned counsel including the learned Departmental representatives, following are the observations of this Tribunal;

(i) The Tribunal is of the opinion that the charges framed were specific and not vague.

(ii) So far the failure of the respondent in not supplying a copy of the advise of the Commission is related, the respondent department has neither controverted nor disagreed with this submission.

Therefore, the Tribunal relying on a judgement passed by the Hon'ble High Court in WPST-2 of 2023 is of the opinion that the respondent authorities have failed to give the charged officer a copy of the Commission's advise. Such opinion not only violated the sub rule 16 of Rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, but, has also denied him an opportunity to represent against the proposed punishment which is tantamount to denial of natural justice. Thus, the laid down procedure of departmental proceedings at a very critical stage has been vitiated.

Therefore, the Tribunal orders that the punishment imposed in the final order upon the charged officer is quashed and set aside with a direction to the respondent authority to supply a copy of the Public Service Commission's advise to the charged officer within two weeks from the date of this order. Thereafter, if the charged officer wishes to submit a representation before the respondent authority, he may do so within two weeks from receipt of such advice. If a representation is submitted by the charged officer the same may be accepted and after

ORDER SHEET

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giving an opportunity of hearing, the reasoned and speaking final order be passed by the respondent within a period of six months from the date of submission of such representation. Deductions from salary, if any, imposed earlier by the respondent on the basis of the quashed order should be refunded or adjusted and no further such deduction should be made.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR