

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

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

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 222 of 2023.

PRAKASH KUMAR NATH – VS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

02  
01.8.2023

For the Applicant : Mr. M.N. Roy,  
Advocate.  
For the State Respondents : Mr. S. Ghosh,  
Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Mr. M.N. Roy submits that the revocation order that the applicant's increment will be regularised according to the final decision of the Hon'ble Court is not in accordance with law. By this order, the respondent has withheld release of his increments. Mr. Roy refers to Rule 45 of West Bengal Service Rules, Part-I. The relevant wordings of rule 45 is as under :-

*"...An increment shall ordinarily be drawn as a matter of course unless it is withheld. When an increment is ordered to be withheld, the authority passing the order shall state a period for which it is to be withheld..."*

Since no specific order was passed withholding the increment, the decision to withhold the increment mentioned in the revocation of suspension order is therefore not in accordance with the above rule.

Mr. Roy also refers to an order of this Tribunal in OA 507 of 2021 (Pintu Sardar – vs- The State of West Bengal & Ors) dated 17.2.2022 in which an

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order was passed on the similar matter.

In response, Mr. S. Ghosh, learned counsel for the State respondents submits that the disciplinary authority withheld the increments in accordance with rule 45 of West Bengal Service Rules. Since the revocation of suspension order passed by the Disciplinary Authority has clearly stated the reason why it is being withheld, therefore, there was no necessity to pass a separate order withholding the increments.

Let the matter appear under the heading "For Orders" on 17<sup>th</sup> January, 2024.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Sk.