

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-259 of 2018

Asim Kumar Bhattacharya VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. S. Ghosh, Mr. M.N. Roy, Mr. R.K. Mondal, Learned Advocates.
<u>23</u> 12.07.2022	For the State Respondents	:	Mr. G.P. Banerjee, Mr. S. Bhattacharjee. Learned Advocates.

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 11th 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 basically challenging the final order dated 09.06.2017. As per the applicant he was charge sheeted in the allegation of bigamy conducted by him during his service period. The applicant had approached earlier and as per the order of the Court, the respondent authority had finally passed punishment order dated 09.06.2017 imposing the following punishment:-

“NOW, THEREFORE, Governor is pleased hereby to order that the penalties of Pension cut of 34 % (Thirty four percent) of basic pension permanently and withholding of entire amount of admissible gratuity permanently are hereby imposed upon the said Sri Asim Kumar Bhattacharyya, A.E. (Mech.) (Retd.) I & W Dte. Under sub-rule (1) of The W.B.S. (DCRB) Rules, 1971 and sub-rule (1) of Rule 8 of the WBS (DCRB) Rules, 1971, respectively.”

As per the counsel for the applicant, as he was a Group-A Officer, therefore, there is no such provision for submitting any appeal before any authority except this Tribunal. He has further submitted that though he has been found guilty in the instant proceedings and has been punished with a penalty of 34% cut in pension permanently, in addition

Form No.

Asim Kumar Bhattacharya

Case No. **OA-259 of 2018**

Vs.
State of West Bengal & Ors.

to that the Disciplinary Authority had withheld the entire amount of admissible gratuity permanently which is too harsh. It has been further submitted that the payment of gratuity is subject to the satisfactory service to the employer and in the instant case, the issue related with the Disciplinary Proceedings is of bigamy and not any other issues related to the service conditions like defalcation of money or disproportionate assets or any other misconduct related directly to the service. Therefore, he is entitled to get his admissible gratuity. He has prayed for appropriate order. The counsel for the applicant has also submitted that it amounts to double punishment.

The counsel for the respondent has, however, submitted that the final punishment order is appropriate and as per rules as the applicant himself admitted the bigamy.

I have heard the parties and perused the records.

It is noted that admittedly the applicant had conducted bigamy, however, he has been imposed with 34% cut in pension permanently as well as withholding the entire amount of gratuity permanently. With regard to final order, the Court had a little scope to interfere, however, as the applicant has already been punished with 34 % cut in pension on permanent basis and the charges involved in the Disciplinary Proceedings are only for bigamy not involved with the service conditions and in the meantime admittedly, before retirement, he was granted promotion also, therefore, further punishment with regard to withholding the entire amount of gratuity amount shocks the consciousness of the Court with regard to quantum of punishment. Therefore, the final order dated 09.04.2017 is quashed and set aside and the matter is remanded back to the Disciplinary Authority to re-consider the punishment portion with regard to withholding of entire D.C.R.G. and pass fresh order with regard to quantum of punishment as observed

ORDER SHEET

Form No.

Asim Kumar Bhattacharya

Case No. **OA-259 of 2018**

Vs.
State of West Bengal & Ors.

above to communicate the same within a period of twelve weeks from the date of receipt of the order. Accordingly, OA is disposed of with no order as to costs.

URMITA DATTA (SEN)
MEMBER (J)

sc