

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 265 of 2017

Ashok Kumar Ray -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Mitra,
Ld. Advocate.

For the State Respondents : Mr. G.P. Banerjee,
Ld. Advocate.

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13.12.2024

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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for setting aside the departmental proceedings being district proceeding no. 15/11 dated 11.03.2011 including the findings of the enquiry, second show cause notice, final order and the Appellate order. After conclusion of the disciplinary proceedings against the charged officer, this applicant, the Superintendent of Police, Burdwan Police District by memo no. 1792 dated 15.05.2013 passed the final order imposing a punishment of dismissal of the applicant from service w.e.f. 15.05.2013. Later, the Appellate authority by memo no. 2208 dated 27.06.2013 confirmed the final order passed in memo no. 1792 dated 15.05.2013.

Mrs. Mitra, learned counsel finds the final order to be unfair on the applicant for the reason that the authorities levelled in the first proceedings are similar to the charges levelled in the second proceedings. The primary charge framed against the applicant is as under:

“Whereas he absented himself from his duty unauthorizedly with effect from 16.11.2010 to 30.12.2010 A.M. and 01.02.2011 to till date (i.e. the date of framing charges). Several intimations were issued to him to join to the transferred post to comply with the order of the Hon'ble High Court, Calcutta and the order issued by the Superintendent of Police, Burdwan, but he did not comply with the same.”

After hearing the submissions of the learned counsels and closely examining the records in this application, the Tribunal has been left with this strong impression that the applicant is not only an insubordinate government employee but also a recalcitrant one. It is clear from the soft posting he was given in the Burdwan Traffic Management System that the respondent authority were fair enough and sympathetic to his medical problem, but despite such sympathy shown towards him he did not comply with several directions of his superiors.

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Being a member of the disciplined force, it was expected that he would comply with the directions of his superiors but it is evident from the records that he was rather insubordinate and defiant. It has also been seen that he did not co-operate and participate in the disciplinary proceedings which is a quasi judicial process. The Tribunal is also satisfied that sufficient opportunities were given to him but he always stayed away from these proceedings believing that the shelter of the legal system will protect him. He has forgotten that being a member of the disciplined and uniform service, his loyalty to his command should have been unwavering.

The Tribunal is also reminded of several judgment of Hon'ble High Court and Hon'ble Supreme Court which discouraged court's, like this Tribunal to interfere with the departmental proceedings. The applicant's side has also not satisfied this Tribunal that the entire disciplinary proceedings suffer from malice and miscarriage of justice. The plea taken by the applicant's side that the charges levelled against the applicant filed in the first disciplinary and the second disciplinary proceedings are similar is not a valid argument. Again, the Tribunal gets the impression that the applicant is trying to evade by filing such applications with such unfounded prayers.

Having come to the conclusion after hearing the submissions intently and examining the records properly, the Tribunal does not find any merit in the prayers filed in this application and thus holds the entire disciplinary proceedings, including the final order and the Appellate order in tune with and within the framework of law.

Accordingly, this application is **disposed of** without passing any orders.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM