

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 317 of 2022

Debasish Dhar -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

03
21.06.2022

For the Applicant : Mr. M.N. Roy,
Mr. S. Ghosh,
Mr. G. Halder,
Learned Advocates.
For the State Respondent : Mr. G.P. Banerjee,
Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Order No. 354-WBAT/2J-15/2016 dated 18th 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 disciplinary proceeding as well as final order dated 14.03.2022 whereby the applicant was imposed with the following punishment.

“..... NOW THEREFORE, in exercise of the power conferred by rule 10 of the West Bengal Service (Classification, Control and Appeal) Rules, 1971, the Governor is pleased hereby to impose the penalty of withholding of 02 (two) increments (without cumulative effect) under Rule 8 (ii) of the West Bengal Service (Classification, Control and Appeal) Rules, 1971 and (ii) Rs. 1,00,000 (Rupees one lakh) be recovered from the salary of the Charged Officer under Rule 8(iii) of the West Bengal Service (Classification, Control and Appeal) Rules, 1971 as part pecuniary loss caused to the Govt. by the Charged Officer.

It is also directed that Shri Debasish Dhar is debarred from promotion during the period of his undergoing penalty in regard to the punishment in terms of 8 (ii) of the West Bengal Service (Classification, Control and Appeal) Rules, 1971 and such debarment will not be treated and imposed as penalty.....”

During the course of the hearing, the counsel for the applicant has vehemently submitted that while imposing punishment of withholding of two increments under Rule 8 (ii), the authority cannot debar him from promotion as laid down by this Tribunal vide Judgment dated 11.01.2019 passed in OA 494 of 2017, which was further affirmed by the Hon'ble High Court, Calcutta vide their Judgment dated 15.11.2019 passed in OA 105 of 2019 against which no appeal has been preferred by the State respondents rather the said order of the Tribunal dated 11.01.2019 has been complied with. Thus, the order of this Tribunal has attained finality. I have gone through the Judgments and satisfied that under Rule 8 (ii) of the West Bengal Service (Classification, Control and

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Appeal) Rules, 1971, both the punishment of withholding increments and withholding of promotion cannot be imposed at a time under Rule 8 (ii) of the said Rules. Therefore, as per the counsel for the applicant, this final order is liable to be quashed. The counsel for the respondent has also admitted that the order dated 11.01.2019 passed by this Tribunal has attained finality.

In view of the above, I quash and set aside the final order dated 14.03.2022 and remand back the matter to the Disciplinary Authority to pass a fresh reasoned and speaking order as per settled principle of law and rules within a period of three months from the date of receipt of this order. However, it is made clear that I have not gone through the merit of the case.

Accordingly, the OA is disposed of with the above observations and directions with no order as to costs.

**URMITA DATTA (SEN)
MEMBER (J)**

CSM/SS