

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

**Case No. OA – 370 of 2022**

**Dr. Sabyasachi Roy - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No.  
and  
Date of order  
4  
30.08.2022

For the Applicant : Mr. P.K. Roy,  
Mr. P. Ghosh,  
Mr. P. Bhattacharyya,  
Advocates.

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

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536 – WBAT / 2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant application has been filed praying for following reliefs:

**“a) Quash the impugned Memorandum dated 30.05.2022 issued by the Director of Health Services, Government of West Bengal being Memorandum No. C/217, wherein the Applicant has been show caused as to why disciplinary proceeding should not be initiated against him within 5 days from the date of receipt of the memorandum without following due process of law;**

**b) Direct the Respondent No. 2 to withdraw/cancel/rescind the impugned Memorandum dated 30.05.2022 issued by the Director of Health Services, Government of West Bengal, wherein the Applicant has been show caused as to why disciplinary proceeding should not be initiated against him within 5 days from the date of receipt of the memorandum.**

**c) Stay the operation of the impugned Memorandum dated**

Form No.

**Dr. Sabyasachi Roy**

**Vs.**

Case No. **OA – 370 of 2022**

**THE STATE OF WEST BENGAL & ORS.**

**30.05.2022 issued by the Director of Health Services, Government of West Bengal, wherein the Applicant has been show caused as to why disciplinary proceeding should not be initiated against him within 5 days from the date of receipt of the memorandum.**

**d) To pass such other or further orders or orders as to the Hon'ble Tribunal may deem fit and proper.”**

However, during the course of the hearing, the counsel for the applicant has placed one judgement dated 03.08.2022 passed in O.A. No. 722 of 2021 with regard to the same applicant, wherein the applicant was suspended on the basis of one inquiry report dated 04.09.2021, which was finally quashed and set aside by this Tribunal. Since, in the instant application, the impugned Show Cause Notice was issued on the basis of the said inquiry report dated 04.09.2021, therefore, according to the applicant, the present Show Cause Notice cannot be sustained. Accordingly, the applicant has prayed for quashing of the Show Cause Notice dated 30.05.2022 as well as inquiry report dated 04.09.2021. The counsel for the respondent has submitted that the instant O.A. has become infructuous in view of the judgement dated 03.08.2022 passed in O.A. 722 of 2021 as the enquiry order dated 04.09.2021 has already been set aside and quashed by this Tribunal by the aforesaid judgement. However, the counsel for the respondent has submitted that they may grant liberty to take appropriate steps in this regard.

Heard the parties and perused the records. It is noted that the same applicant had challenged the inquiry report dated 04.09.2021 as well as suspension order dated 04.09.2021 in O.A. No. 722 of 2021, wherein by judgement dated 03.08.2022 this Tribunal has already held, inter alia:

**ORDER SHEET**

Form No.

**Dr. Sabyasachi Roy**

Vs.

Case No. **OA – 370 of 2022**

THE STATE OF WEST BENGAL & ORS.

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**“In view of the above, in my considered opinion, the said suspension order is not sustainable as has been issued without granting the applicant the opportunity of submitting the defence statement as per their own order and/or without reviewing the suspension order or enhancement of subsistence allowance. Even since March-22 his subsistence allowance has been stopped till the date of final hearing, which shows the arbitrariness on the part of the respondents. Therefore, I quash and set aside the suspension order dated 04.09.2021. Accordingly, the OA is disposed of with no order as to costs.”**

From the perusal of the above, it is observed since the inquiry report dated 04.09.2021 has already been set aside and quashed by this Tribunal and the impugned Show Cause Notice dated 30.05.2022 issued on the basis of the aforesaid Inquiry Report dated 04.09.2021, therefore, the instant Show Cause Notice is not sustainable. Thus the Show Cause dated 30.05.2022 is quashed and set aside. Accordingly, the O.A. is allowed with no order as to costs.

URMITA DATTA (SEN)  
Officiating Chairperson and Member (J)

A.K.P.