

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-402 of 2022

Bidesh Roy VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>04</u> 10.08.2022	For the State Respondents	:	Mr. G.P. Banerjee Mr. B.P. Roy, 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.

The instant application has been filed praying for following relief :-

a)An order do issue thereby set aside/quash the entire departmental proceeding including show cause notice dated 17.06.2021, enquiry report, final order vide DO No. 608 dated 27.04.2022 in connection with Howrah (Rural)District Proceeding No. 09/17 dated 28.11.2017 and the appellate authorities order vide DO No. 747 dated 17.05.2022 with immediate effect.

b) An order do issue thereby set aside/quash the final order as well as the appellate authorities order vide DO No. 747 dated 17.05.2022 with immediate effect as the final order of penalty has been enhanced in the appeal without issuance of any second show cause notice. .

c) An order do issue directing the respondent authorities to produce records pertaining to the instant application before this Hon'ble Tribunal, so that conscionable justice can be delivered.

d) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.

ORDER SHEET

Form No.

Bidesh Roy

Case No. **OA-402 of 2022**

Vs.

The State of West Bengal & Ors.

During the course of hearing, the counsel for the applicant has vehemently submitted that even the Appellate Authority's order is bad in law as the Appellate Authority has enhanced the punishment imposed by the Disciplinary Authority without affording the applicant any opportunity of hearing or to represent. It has been further submitted that on the above situation, though the applicant is not presently pressing for quashing of Disciplinary Authority's order but it would suffice his purpose if the Appellate Authority would grant him appropriate opportunity before passing any Appellate Order.

I have heard the parties and perused the records. It is an admitted fact that the Appellate Authority did not grant any opportunity of hearing or submitting any representation before enhancing the punishment order.

It is noted that the Disciplinary Authority has passed the following punishment order :-

- a) "His annual increment for a period of one year is hereby withheld with future effect.
- b) He was placed under suspension w.e.f. 08.07.2017 PM and he was released from suspension 21.11.2017 P.M. Entire period of his suspension is confirmed.
- c) His held over pay, if any, be released after necessary adjustment. Over drawal, if any, be recovered forthwith."

And the Appellate Authority has passed the following order :-

- a) "Hence, I revise the punishment portion of the final order vide PRB Rule No. 882 as
 - i) His increment for a period of three years is hereby withheld with future effect. Rest portion of the final order shall remain unchanged."

From the above, it is noted that the Appellate Authority has

ORDER SHEET

Form No.

Bidesh Roy

Case No. **OA-402 of 2022**

Vs.

The State of West Bengal & Ors.

admittedly enhance the quantum of punishment.

In view of the above, I quashed and set aside the order dated 17.05.2022 passed by the Appellate Authority and the matter is remanded back to the Appellate Authority to consider the appeal of the applicant de novo and if he wishes to enhance any punishment, he should grant an opportunity of hearing or to make any representation and communicate his decision by way of passing a reasoned and speaking order within a period of eight weeks from the date of receipt of this order.

URMITA DATTA (SEN)
MEMBER (J)

sc