<u>order sheet</u> WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present : HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN &

HON'BLE SAYEED AHMED BABA, ADMINISTRATIVE MEMBER.

Case No. – OA 453 of 2018.

SANJIB SARKAR-VERSUS-THE STATE OF WEST BENGAL & ORS.

For the Applicant : Mr. A.K. Das Sinha, Advocate.

Serial No. and Date of order

order

<u>15</u> 22.6.2022 For the State respondents : N

: Mr. S. Ghosh, Advocate.

In this application, Sanjib Sarkar, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-

"...(a) An order by commanding and directing the Secretary to the Government of West Bengal, Personnel & Administrative Reforms Department, to allow the applicant to join in any suitable post according to his seniority as a WBCS (Executive) Group – 'A' Officer within such a time bound period as to Your Lordship may seem fit and proper in the facts and circumstances of the case;

(b) An order by commanding and directing the Secretary to the Government of West Bengal, Personnel and Administrative Reforms Department, to release the arrears of salaries and allowances of the applicant with effect from 01.10.2011 to till date including consequential service benefits forthwith....;"

It is evident from records that proceedings were initiated against the applicant when he refused to join the transferred post of Deputy Magistrate and Deputy Collector, Murshidabad from the post of District Manager, W.B.S./C & S/T Development & Finance Corporation, Murshidabad. The proceeding culminated in passing of an order on 24th June, 2016, the relevant portion of which is as under :-

".....WHEREAS, the said Inquiring Authority, Shri Nirmalya Ghosal, Deputy Commissioner for Departmental Enquiries, Vigilance Commission, West Bengal, upon completion of the enquiry, found him guilty on the article of charge-II framed against him, whilst the article of charge-I

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was not substantiated;

AND

WHEREAS, on consideration of report of the Inquiring Authority and the records of the case, the Disciplinary Authority was of the opinion that the said Shri Sarkar was guilty of the charge-II framed against him and tentatively decided for imposition of a penalty of 'Censure' against him;

AND

WHEREAS, in terms of Sub-Rule-(13) of Rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971, all papers connected with the Departmental Proceedings were sent to the Public Service Commission, West Bengal for its opinion vide No. 522-P&AR(Vig.) dated 30/07/2015;

AND

WHEREAS, the Public Service Commission, West Bengal after examining the case records and all other aspects related to the case, recommended and advised that the penalty of 'Censure' be inflicted upon Shri Sarkar and he 'be debarred from promotion for a period of one year';

AND

WHEREAS, the Disciplinary Authority, after considering all relevant documents and records of the case, was of the opinion that a penalty of 'Censure' be imposed upon the said Shri Sanjib Sarkar, W.B.C.S. (Exe.), in terms of Rule 8(i) of the West Bengal Services (Classification, Control & Appeal) Rules, 1971;

NOW

THEREFORE, in exercise of the power conferred by Rule 8(i) of the West Bengal Services (Classification, Control & Appeal) Rules, 1971, the Governor is pleased to order imposition of penalty of 'Censure' upon Sri Sarkar with an intimation that repetition of this misconduct in future will invite major penalty/disciplinary proceedings without any further notice.

A copy of letter no. 4273-P.S.C. dated 29/12/2015 containing

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recommendation and advice of the Public Service Commission, West Bengal is enclosed herewith...".

Mr. A.K. Das Sinha, learned advocate for the applicant relying on the Original Application submits that as the applicant, as evident from the prayer, has prayed to allow him to join duty in a *"suitable post"* according to his seniority as W.B.C.S.(Executive) Grade-A Officer and to release the arrear salaries and allowances with effect from 1st October, 2011, appropriate order may be passed as the applicant has filed representations annexed to the application, the last of which was filed on 30th May, 2017.

Mr. S. Ghosh, learned advocate for the State respondents relying on the reply submits that as departmental proceeding has been initiated by memorandum dated 14th February, 2019, no order may be passed.

Heard learned advocates for the parties.

Since the applicant has prayed to allow him to join in a "*suitable post*" according to his seniority as a W.B.C.S. (Executive) Grade-A Officer, considering the facts and circumstances of the case, the application is disposed of by granting liberty to file representation in tune with prayer 'a' of the application before the Secretary, now re-designated as Additional Chief Secretary, Personnel and Administrative Reforms Department, Government of West Bengal, Nabanna, Howrah, - the respondent no. 2 within four weeks along with a copy of this order downloaded from the website of the Tribunal. If representation is filed along with the prayer for release of arrear salary and allowances within the time as stipulated, it shall be disposed of by the respondent no. 2 within twelve weeks after giving an opportunity of hearing to the applicant and after verifying the records.

(SAYEED AHMED BABA) MEMBER(A) (SOUMITRA PAL) CHAIRMAN.

Skg.

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