

ORDER SHEET

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 470 of 2023

Debashis Chakraborty - 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.

01
10.07.2023

For the State Respondents : Mrs. S. Mitra,
Learned Advocate.

For the P.S.C., W.B. Mr. S. Bhattacharjee,
Learned Advocate.

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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed be kept on record.

The prayer in this application for setting aside the impugned Order No. 475 dated 08.06.2022 passed by the respondent imposing a punishment upon the applicant as the charged officer after completion of the Departmental Proceedings. Submission of Mr. Roy, learned counsel appearing for the applicant is that this order is not maintainable since it contains double punishment :- one withholding of an annual increment for a period of two years and depriving him of two promotions during the period of the penalty.

Mr. Roy referring to Rule (ii) of the WBS (CC&A) Rules, 1971 submits that such double punishment by a single order is void under this Rule. Here, the respondent has deviated from the Rule by imposing two separate and distinguishable punishments. Therefore, this impugned punishment order is not maintainable in the eyes of law.

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THE STATE OF WEST BENGAL & ORS.

Mr. Bhattacharjee, learned counsel appearing on behalf of the P.S.C., West Bengal refers to page 35, the Order No. 540 dated 15.06.2022 which stays the operation of the Order No. 475 dated 08.06.2022 as “temporarily kept in abeyance”. This order is signed by the Principal Secretary of the Department who is also the Disciplinary Authority of this Departmental Proceeding against the applicant.

Mr. Bhattacharjee also files a copy of Commission’s correspondence to the Department dated 21.06.2023 by which the Commission is of the view that the “*Penalty of withholding of annual increments for a period of 2 (two) years without cumulative effect in terms of Rule 8(ii) of WBS (CCA) Rules, 1971 is appropriate in the instant case, as was communicated to the Department under this office earlier letter No. 639-P.S.C dt. 01.06.2022*”.

Mrs. S. Mitra, learned counsel appearing on behalf of the State respondents prays for accommodation to take instruction from the Department on the issue of submission mentioned in Order No. 540 dated 16.06.2022 by the next date.

Let the matter appear under the heading “**For Orders**” on **20.07.2023**.

SAYEED AHMED BABA

Officiating Chairperson & MEMBER (A)

H.S