

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-473 of 2022

Milan Kanti Mandal 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>03</u> 22.08.2022	For the State Respondents	:	Mr. S.N. Roy. Learned Advocate.

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 basically challenging the impugned final order dated 10.05.2022 as well as office order dated 27.05.2022 (Annexure-D). As per the applicant, he has been punished with a penalty of withholding of two annual increments with cumulative effect in terms of Rule 8(ii) of WBS (CCA) Rules, 1971 which is contrary to the settled principle of law as has been held by this Tribunal in the case of Sanjay Kr. Dutta Vs. State of West Bengal in OA-494 of 2017 vide judgement dated 11.01.2019, which has been subsequently affirmed by the Hon'ble High Court, Calcutta in WPST No. 105 of 2019 vide judgement dated 15.11.2019. Even the Govt. has already implemented the said orders without preferring any appeal against both the orders. It has been further submitted by the applicant that even he has not been served with the Enquiry Report as has been held by the Hon'ble Apex Court in the case of Managing Director, ECIL, Hyderabad & Ors. Vs. B. Karunakaran reported in (1993) 4 SCC 727. Therefore, he has prayed for quashing of impugned orders.

The counsel for the respondent has submitted that the department is ready to grant an opportunity to the applicant by way of serving a copy of Enquiry Report before passing any further order.

ORDER SHEET

Form No.

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I have gone through both the judgement wherein it has been clearly held that both the stoppage of increment and debarment of promotion cannot be imposed at a time as per Rule 8 (ii) of WBS (CCA) Rules, 1971 as already held by the Tribunal and further affirmed by the Hon'ble High Court, Calcutta.

In view of the above, both the orders dated 10.05.2022 and 27.05.2022 are quashed and set aside and the matter is remand back to the Addl. Chief Secretary, Forest Department with a direction to serve a copy of the Enquiry Report to the applicant to enable him to make representation and thereafter pass a final reasoned and speaking order within a period of four months from the date of receipt of this order. Accordingly, OA is disposed of with no order as to costs.

URMITA DATTA (SEN)
MEMBER (J)

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