

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 480 of 2020

Subhendu Mandal -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. S. Roy Chowdhury,
Learned Advocate.

02
19.03.2021

For the Respondent No. 1 : Mr. A. De,
Ms. R. Sarkar,
Deptt. Repts.

For the Respondent No. 2 : Ms. S. Agarwal, Ld. Adv.

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020, issued in exercise of the powers conferred under sub section (6) of Section 5 of the Administrative Tribunals Act, 1985.

During the course of the hearing, the counsel for the applicant has submitted that the initial suspension order is void ab-initio as the applicant was suspended under a wrong rule. Therefore, the said suspension order dated 25.03.2019 should be quashed.

The counsel for the applicant has submitted that the applicant was suspended as per rule 7 of para 3 of WBS (DCRB) Rules, 1971 vide Memo dated 25.03.2019. He has been suspended under wrong rule as there is no such provision under rule 7 para 3 of WBS (DCRB) Rules, 1971 to suspend any employee. As per the applicant, even no review has been made with regard to the suspension order during the last two years.

No reply has been filed, however, the departmental representative and the counsel for the respondent no. 2 have basically admitted that by mistake a wrong rule has been quoted/typed, while issuing of suspension order. However as there is a serious charge against the applicant, they are ready to rectify such mistakes.

Heard both the parties and perused the records as well as rules. It is noted that there is no such provision i.e. Rule 7 (3) under WBS (DCRB) Rules, 1971 to suspend any delinquent officer. Therefore, admittedly the applicant was suspended under wrong rule which cannot sustain. However, it

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is also observe that the applicant was suspended on a serious charge that he was detained beyond 48 hours in custody as well as two criminal cases are pending against him.

In view of the above, I quash and set aside the impugned order dated 25.03.2019 on the ground of quoting the wrong rule and direct the respondents to allow the applicant to join. However, the respondent would be at liberty to take appropriate steps in accordance with law and rules with regard to suspension.

Accordingly, the **OA is disposed of** with no order as to cost.

Parties are directed to act upon the Website copy of the order.

Mrs. URMITA DATTA (SEN)
MEMBER (J)

HS/CSM