

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

Case No. –OA 541 of 2018

Asish Kumar Bhattacharya - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>12</u> 23.02.2022	For the Applicant For the State Respondent	: Mr. G.P. Banerjee, Advocate. : Mr. S. Ghosh, Advocate.
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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.

In this application, Asish Kumar Bhattacharya, the Medical Technologist (Radio Diagnostic), Grade-III under the Directorate of Health Services, Government of West Bengal has challenged the order contained in the memo. dated 3rd May, 2018 passed by the Superintendent, Vidyasagar S.G. Hospital, Behala, Kolkata – 700 034, the respondent no. 4 on several grounds.

Mr. G.P. Banerjee, learned advocate on behalf of the applicant submits that since the “letter of show cause” dated 17th April, 2018 speaks about the absence of duty of the applicant on 13th April, 2018 and calls for an answer regarding deduction of salary for that day, the impugned order, however, speaks of deduction of salary for four days i.e. 13th April, 2018, 14th April, 2018, 27th April, 2018 and 28th April, 2018 which is beyond the scope of the letter of show cause and, therefore, the same be quashed.

Mr. S. Ghosh, learned advocate for the State respondents submits that since the applicant was absent on all those four days without any intimation, the deduction of salary of the said four days is just and proper.

ORDER SHEET

Asish Kumar Bhattacharya

Form No.

Vs.

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THE STATE OF WEST BENGAL & ORS.

It appears by memo. dated 17th April, 2018, the respondent no. 4 had directed the applicant to show cause regarding the absence of duty on 13th April, 2018 and for deduction of “salary for that day” if reply was not satisfactory. The applicant, by letter dated 19th April, 2018 had given his answer regarding absence of duty on 13th April, 2018 and 14th April, 2018. Perusing the order, I find the respondent no. 4 has gone beyond the letter of show cause and has passed orders regarding “unauthorised absence” on 27th April, 2018 and 28th April, 2018 and has deducted salary for all the four days which includes 13th April, 2018 and 14th April, 2018.

In my view, the order under challenge cannot be sustained as the punishment inflicted is beyond the scope of the letter of show cause. Therefore, the order contained in the memo. dated 3rd May, 2018 is set aside and quashed. The application is allowed. However, this order shall not prevent the respondents from proceeding afresh in accordance with law.

(SOUMITRA PAL)
CHAIRMAN

CSM/SS