

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 55 of 2023

Pratip Rudra -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.
For the State respondent : Mr. G.P. Banerjee,
Ld. Advocate.

03
19.04.2023

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.

Reply filed by the State respondents and rejoinder filed by the applicant be kept on record.

The prayer in this application is for setting aside the entire departmental proceeding including the punishment imposed upon the applicant. Mr. M.N. Roy, learned counsel for the applicant submits that the entire departmental proceeding as well as the punishment imposed was in violation of the established Service Rules. In particular, he relies on his submission that the Disciplinary Authority before imposing the punishment did not consult the PSC, WB. The applicant, Pratip Rudra as a Superintending Engineer belongs to a Group-A post and as per Rule 10(13) of West Bengal (Classification, Control and Appeal) Rules, 1971, it was mandatory on the part of the authority to consult the PSC, WB since the applicant is a Group-A officer before imposing the punishment.

Mr. G.P. Banerjee, learned counsel for the State respondent refers to para 7(iv) of the reply submitted by the respondent in which the respondent has stated that the authority took the decision to impose penalty on his own volition without being influenced by the advice of the PSC, WB. The respondent also mentions that the function of PSC, WB is purely advisory in nature and such advice is not binding on the respondent authority.

In the rejoinder, the applicant has refuted the contention of the respondent with regard to the advice of PSC, WB since the applicant belongs

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to Group-A officer before passing the final order of the punishment. Such consultation was mandatory before passing the final order of punishment as per Rule 10(13) of West Bengal (Classification, Control and Appeal) Rules, 1971. Therefore, such action on the part of the respondent was violation of establishment norms.

Heard in part.

Till disposal of the case, the respondent authorities is directed not to take any coercive action against the applicant.

Let the matter appear under the heading "**Further Hearing**" on **15.06.2023.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS