

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 572 of 2022.

DEBASISH DHAR – VS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

6  
28.7.2023

For the Applicant : Mr. M.N. Roy,  
Mr. S. Ghosh,  
Advocates.

For the State Respondents : Mr. G.P. Banerjee,  
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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

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

The applicant has prayed for a direction to the respondent no. 3 to implement the reasoned order passed by the Principal Secretary, Finance Department on 31.3.2022. In compliance to this Tribunal's order dated 8.10.2020, this reasoned order was passed granting financial benefits to the applicant following his reinstatement in service by virtue of an order dated 9.12.2005. By this reasoned order, the applicant has become entitled to annual increment following his reinstatement. Similarly, other service benefits like, CAS, promotion that were due to him have also been considered in accordance with the rules. The order also implies that while granting CAS or considering promotion, period of suspension should not be taken into consideration for the purpose of calculating his qualifying service.

In order to implement the order of the Principal Secretary, the Inspector General of Registration & Commissioner of Stamp Revenue, West Bengal passed the order No. 3824 dated 12.12.2022. By this detailed order, the post-reinstatement

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service benefits of the applicant has been considered.

While accepting the order of the Principal Secretary dated 31.3.2022 and also the order 3824 dated 12.12.2022, Mr. M.N. Roy, learned counsel for the applicant however points out that the lines “... *Needless to mention no such benefit shall also be allowed during the currency of the punishment period.....*” is not in accordance with law. According to Mr. Roy, this period from 30.4.2015 to 14.3.2021 is the period when the second departmental proceeding against the applicant was in operation and since punishment as mentioned in this order has already been given, therefore, stating that promotion/CAS benefits are not admissible is an additional imposition of punishment and thus violative of principles of justice.

Responding to Mr. Roy’s submission, Mr. G.P. Banerjee, learned counsel for the State respondents submits that all promotions are processed by following the relevant guidelines. Since promotion is not a right, the applicant cannot claim such promotion before his eligibility at this stage is assessed.

The Tribunal observes that since the departmental proceeding has already been concluded by imposition of a set of punishments upon the applicant – withholding two increments and recovery of Rs. One lakh, the closing sentence in the Principal’s Secretary’s reasoned order - “...*Needless to mention no such benefit shall also be allowed during the currency of the punishment period.....*” appears to be not only unnecessary but also implies imposition of another new set of punishment. Having punished the applicant by withholding two increments and recovery of Rs. One lakh, the Tribunal feels that the Disciplinary authority cannot add another set of new punishment hindering his future prospects of promotion and CAS benefits. It would be unfair for the applicant to be declared unfit for promotion at this very stage without his eligibility been properly assessed. The applicant is also apprehensive and rightly so, that besides the punishment order being implemented by memo no. 3824, his chances of promotion in the future will also be blocked by such unfair order. Therefore, the Tribunal does not see it proper for the Principal Secretary to add these two lines which could be used against the applicant in future and deprive him of his

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chances to be promoted, if eligible otherwise.

Therefore, the Tribunal is of the view that since the reasoned order passed by the Principal Secretary has already been implemented by the order of the Inspector General of Registration & Commissioner of Stamp Revenue, the reference made “... *Needless to mention no such benefit shall also be allowed during the currency of the punishment period...*” is not only in violation of the rules relating to departmental proceeding, but also appears to be double jeopardy on the applicant and denial of natural justice to him.

With the above observation, this application is disposed of directing the respondents to consider the above observation of this Tribunal in implementing the order of the Principal Secretary, Finance Department dated 31.3.2022.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Sk.