

**ORDER SHEET**

**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 573 of 2024**

**Suvankar Banerjee -- VERSUS – The State of West Bengal & Ors.**

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Serial No. and  
Date of order

For the Applicant : Mr. Baibhav Roy,  
Ld. Advocate.

For the State Respondents : Mr. G.P. Banerjee,  
except 3 & 4 Ld. Advocate.

03  
10.01.2025

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.

The applicant, a suspended Government employee, has filed this application praying for quashing and setting aside the order dated 04.09.2024 bearing memo no. 411/Estt. The applicant has also prayed for a direction to allow him to rejoin the post of Upper Division Assistant. From the statements in the application and submissions of the learned counsel for the applicant, it is understood that the applicant working as a UDA in the office of Block Development Officer, Kanksa, Paschim Bardhaman was served a suspension order by memo. no. 411/Estt. dated 04.09.2024. He was deemed to have been placed under suspension w.e.f. 28.08.2024. In terms of sub-clause (c) of sub-rule (1) and sub-rule (3) of Rule 7 of West Bengal Services (CCA) Rules, 1971, the order was signed and issued by the District Magistrate & Collector, Paschim Bardhaman. The reason why he was deemed to have been suspended under the said rule appears to be a communication from the Commissioner of Police, Howrah mentioning his arrest on 28.08.2024 in connection with Howrah P.S. Case No. 317/24 dated 27.08.2024 u/s 191(2) / 191(3) / 190 / 192 / 223 / 221 / 109 / 121(1) / 121(2) / 132 / 326(G) / 324(4) / 351(2) BNS R/W Sec.9/150 of the West Bengal maintenance of Public Order (Amendment) Act, 2017 and 3 of the Prevention of Damage to Public Property Act, 1984. Due to his involvement in this case, the applicant was arrested on 28.08.2024 and remained in custody for about 120 hours.

By his own admission in this application, the applicant describes himself as an active member of one organisation called ‘Sangrami Joutha

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Mancha'. This Mancha has been agitating against "various inaction/illegalities/corruption of the Government of West Bengal." The applicant being an active member of this organisation had participated in a protest march relating to an incident of R.G. Kar Medical College & Hospital. Fearing that such a march and protest against the Government around the restrictive area of the State Secretariat may cause serious breach of peace, the police authorities by memo. 107 dated 26.08.2024 denied permission to remain such protest and the organisers were duly informed. However, despite denial of such permission, as stated by the applicant in this application itself, the members of the Sangrami Joutha Mancha, including the applicant participated in the protest march on 27.08.2024 defying the directions of the police authorities. From the First Information Report registered by the police and the allegations made against the applicant and others named in the FIR, it is understood that during the unlawful march, several Government properties were damaged, including serious injury to some of the police personnel on duty. This march also inconvenienced the public in general because the main highway, G.T. Road and its arteries were also closed due to such agitation. On the next day, the applicant was arrested along with those named in the FIR and remanded to police custody and got bail after few days. After he was free on bail, the applicant rejoined his duty in the office of Block Development Officer, Kanksa and received a Show Cause Notice dated 30.08.2024 for his absence from office on 28.08.2024. He was asked to reply to the Show Cause within 72 hours. On 04.09.2024, he received the order of suspension which is dated 04.09.2024 in memo. no. 411/Estt.

Submission of the learned counsel is that the Rule 7(1)(c) relied on by the Authority is not the appropriate provision for placing any employee under deemed suspension. The Rule 7(1)(c) under the chapter Suspension empowers the employer to place the Government employee under suspension where (c) a case against him in respect of any criminal offence is under investigation or trial. Submission is that even the Rule relied on by

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the authority being 7(2) and 7(3) are also not the correct provision by which the applicant could be placed under deemed suspension. The Rule 7(2) empowers the Respondent authority for such action if the employee has been charged with any moral turpitude, but in this case, the applicant, who had participated in a peaceful demonstration was not involved in any moral turpitude.

Further submission is that under Rule 7(3), an employee can be placed under suspension until further order but, in the suspension order imposed on the applicant without specifying any date by which such suspension will end. It has also been submitted by the learned counsel that the criminal case is not connected with the discharge of his duty and such suspension cannot prolong beyond 90 days. Mr. S. Banerjee had submitted that the applicant has now been suspended for more than 90 days despite being released on bail. Therefore, further continuation of such suspension is arbitrary and bad in law. Mr. Banerjee, therefore prayed for an interim direction to the Respondent authorities to stay the operation of the suspension order.

Mr. G.P. Banerjee, learned counsel for the State argued that such interim prayer is premature at this stage because the suspension order was issued only in the month of September this year. Further, the applicant has approached this Tribunal without exhausting all remedies available to him. Such amenities is available to him in terms of the WBS (CCA) Rules, 1971.

Mr. G.P. Banerjee further submitted that it was unbecoming of a Government employee to participate in a demonstration against the Government. His further argument is that such suspension was preceded by a show cause notice issued to him by the Block Development Officer. Therefore, such suspension was neither arbitrary nor whimsical and it was well within the legal frame work of the Rules framed for such matters. The charges are grave against the applicant for being a Government employee, he has been charged with damaging Government property. So far the question of moral turpitude is concerned as indicated in 7(2) of the CCA

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Rules, Mr. G.P. Banerjee is clear that the charges levelled against him in the criminal case are related to moral turpitude.

Ms. R. Sarkar appearing on behalf of the L & LR Department submits that her department has no role in this matter. Since the applicant was appointed by the District Magistrate and Collector with the approval of the Department of Disaster Management. Therefore, the employee being under the suspension and control of the Disaster Management Department through the District Magistrate is not an employee of the L & LR Department. Therefore, L & LR Department as a Respondent be expunged.

Having heard the submissions of the learned counsels and on examination of the records in this matter, the Tribunal is of the clear opinion that the charges levelled against the applicant are grave. By his own admission in this application, the applicant has stated that he participated in a protest march against the Government despite such programme was not allowed by the police authorities. It is unbecoming of a Government employee to knowingly and voluntarily participate in a programme against the Government for which permission was denied. It is also wrong on part of the applicant's side to perceive the order of suspension as a punishment. Suspension is not a punishment but only a way forbidding an employee to help the Disciplinary Authority to conduct a proper enquiry. The Disciplinary Authority is within its absolute propriety to suspend an employee pending an enquiry into his misconduct. It is a well settled principle that an order of interim suspension can be passed against an employee while an enquiry is pending into his conduct. It is always advisable to allow the disciplinary proceedings to continue unhindered. At this very initial stage of enquiry, it is not proper for the Tribunal to interfere and pass any direction relating to the order of suspension. The Hon'ble Supreme Court in (1994) 4 SCC 126 had clearly expressed its displeasure with the Tribunals for its unjustified interference with the order of suspension. In another judgment, the Hon'ble Supreme Court in (2013) 16 SCC 147 had held that, "even if criminal trial or enquiry

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is taking a long time, it is ordinarily not open to court to interfere with suspension order as it is within exclusive domain of competent authority.”

Having observed the above points, the Tribunal desists from any interference in the order passed by the District Magistrate placing the applicant under suspension. However, the Tribunal directs the Respondent No. 6, the District Magistrate and Collector, Paschim Bardhaman to review his order of suspension in terms of Memorandum No. 9266-F(P) dated 16.11.2012. Since the Tribunal has observed that the charges against the applicant are grave and of serious nature and in view of the observations in the foregoing paragraphs, the prayer for interim order is not allowed.

This application is disposed of.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

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