

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

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

**Present-**

**The Hon'ble Mrs. Urmita Datta (Sen), Officiating Chairperson and Member (J).**

**Case No. –OA 618 of 2022**

**Shubhendu Bhattacharjya. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: Mr. M. N. Roy, Mr. G. Haldar, Advocates.
<u>01</u> 23.09.2022.	For the State Respondents	: Mr. A. De, Ms. R. Sarkar, Mr. S. Debray, Departmental Representatives.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26<sup>th</sup> August, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

The instant application has been filed challenging the order dated 13.09.2022, whereby the suspension order dated 06.02.2018 with immediate effect with the stipulation that the period spent under suspension will be treated as “the period spent on suspension” with effect from 06.02.2018 to 12.07.2022 and the period ranging from 13.07.2022 to 13.09.2022 will be treated as spent on duty. As per the applicant, though he was suspended vide order dated 06.02.2018, thereafter, one Charge Sheet was issued on 02.04.2018, the applicant participated in the said disciplinary proceeding and ultimately, Second Show Cause Notice was issued on 07.01.2019. However, as no final order was passed, being aggrieved with the applicant approached before this Tribunal in OA-420 of 2020, which was finally disposed of vide order dated 11.12.2020 with a direction to complete the departmental proceeding with a period of six months from the date of receipt of the order, in default, the proceeding would be vitiated. However, the Disciplinary Authority had issued Final Order on 12.02.2021, i.e. beyond the stipulated period of six months. Being aggrieved with the

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applicant had challenged the said Final Order in OA-506 of 2021, which was finally disposed of vide judgement dated 15.06.2022 holding that as per the earlier order dated 11.12.2020, the said disciplinary proceeding had already vitiated as per default clause. As per the applicant, though the said disciplinary proceeding is vitiated and the Final Order dated 12.05.2021 was quashed by this Tribunal. However, the Disciplinary Authority again passed an Order dated 13.09.2022, after withdrawing the suspension order, had treated the suspension period as spent on suspension from 06.02.2018 to 12.07.2022, which is not permissible as the suspension order was issued in contemplation of the disciplinary proceeding under Rule 7(1) of West Bengal Services (CCA) Rules, 1971 and as disciplinary proceeding has been vitiated and the final order has been quashed. Therefore, the suspension cannot be treated as a suspension as it has become infructuous in view of the order passed by this Tribunal. Therefore, he has prayed for interim protection for staying of the order dated 13.09.2022.

The departmental representatives have submitted that they have not received instruction. However, they have opposed the prayer of stay of the order dated 13.09.2022 and want to file reply.

Heard the parties and perused the record. It is noted that the disciplinary proceeding had already been quashed / vitiated in view of the judgement dated 13.09.2022 as well as 15.06.2022. As he was suspended under the Rule 7(1) of West Bengal Services (CCA) Rules, 1971, i.e. the contemplation of the disciplinary proceeding, therefore, in my opinion, the applicant has a prima facie case for interim protection. In view of above, the respondents are directed to file reply by four weeks and rejoinder, if any, by two weeks thereafter. In the meantime, the respondents are directed not to take any steps in view of the order dated 13.09.2022 till the next date with regard to not to the period of

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suspension from 06.02.2018 to 12.07.2022.

The applicant is at liberty to join as suspension has been revoked.

Let the matter be listed under the heading "**Admission Hearing**" on **04.11.2022.**

URMITA DATTA (SEN)  
Officiating Chairperson and Member (J)

S.M.