

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. – OA 636 OF 2022

NOOR MOHAMMAD - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

09
24.07.2024

For the Applicant : Mr.K.Basu
Mr.S.Banerjee
Advocates

For the State respondents : Ms.Ruma Sarkar
Mr.Sourav Debray
Ms.A.Bhattacharya
Mr.R.Bag
(Departmental Representatives)

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 and the learned Departmental representatives for the contesting parties, the case is taken up for consideration sitting singly.

Mr.K.Basu and Mr.S.Banerjee, learned counsels appearing on behalf of the applicant submitted the following arguments:

Though in the second show cause notice issued on 03.05.2021, a punishment of reduction of pay by two stages lower for a period of two years under the Rule 8 (iv) of WBS (CCA) Rules, 1971 was proposed, but in the final order passed by the disciplinary authority, besides the proposed punishment as mentioned above, an additional punishment was also included – “Debarring the charged officer from promotions during the period of his undergoing penalty”. The learned counsels feel that the disciplinary authority has acted beyond his powers in imposing this second punishment which was not in the ambit of proposal given by the

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Inquiring Officer within the scope of the disciplinary proceedings. They have also argued that during the entire disciplinary proceedings, the charged officer was not afforded reasonable opportunity to participate and defend his case. Further, elaborating on this submission, Mr.Basu points out to para (XV) of his application and submits that during the entire proceedings, the Inquiry Officer did not send him the statement of the witnesses, which otherwise could have enabled him to participate more actively. Mr.Basu also points out that during the entire proceedings, the charged officer was not supplied with the copy of the inquiry report. It has also been pointed out by a Memo. dated 03.05.2021 a second show cause notice after cancelling the first one dated 16.05.2018 was issued by which a copy of the inquiry report was also handed over to the charged officer. It has also been submitted that by passing the revised final order dated 19.07.2022, the first final order passed earlier dated 16.05.2018 was cancelled. However, the proposed punishment of reduction of pay by two stages lower for two years was imposed upon the charged officer, since the date, the first order was executed in 2018. From the response submitted by the Department and after referring to Memo. No. 166 dated 25.01.2022 the Department has after revision of the final order passed an order to pay the arrears to the applicant.

From the submissions of both the sides, it appears there is a disagreement whether the applicant was paid his arrears accruing from the punishment imposed upon him by the first final order in 2018. Let the Department furnish before this Tribunal a statement of arrears paid to the applicant from the month of May, 2018 till January, 2022. Let a copy of such statement be served upon the other side. Matter to appear under the heading "Further Hearing" on 20th February, 2025 for hearing

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the submissions of the Department in response to the points argued by
the applicant's side today.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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