

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 637 of 2022

Somnath Maiti -- VERSUS – The State of West Bengal & Others

Serial No. and
Date of order

For the Applicant

: Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.

08
30.01.2025

For the State Respondents

: Ms. R. Sarkar,
Mr. S. Debray,
Mrs. A. Bhattacharya,
Mr. R. Bag,
Ld. 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.

The applicant has prayed for a direction upon the respondent authorities for quashing/setting aside the entire departmental proceeding which culminated in passing the final order of punishment vide order no. 2337 dated 24.08.2022. The final order imposed the punishment of reduction to a lower stage for the period of two years. The relevant portion of the said memo is as follows :

“Reduction to a lower stage in the time scale of pay by 01(one) stage for a period of 02(two) years with further direction that the Charged Officer will not earn increment of pay during the period of such reduction and on expiry of such period of reduction, the reduction will not have the effect of postponing the future increments of his pay” in terms of Rule 8(IV) OF West Bengal Services (Classification, Control and Appeal) Rules, 1971 with further direction that the Charged Officer be debarred from promotion during the period of his undergoing the penalty. Such debarment should not be treated and imposed as a penalty.”

Earlier the Tribunal on 28.09.2022 being satisfied with the plea of the applicant stayed the operation of the final order till disposal of this application. Appearing on behalf of the applicant, Mr. M.N. Roy, learned counsel submits the following points :

- (i) The punishment imposed in the final order was in terms of 8(iv) of West Bengal Services (Classification, Control and Appeal) Rules, 1971. Submission is that this Rule covers only lowering of stages of pay but does not cover debarring a Charged Officer from promotions. The punishment lowering the stage of pay as well debarring promotion is covered under Rule 8(v) of the West

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Bengal Services (Classification, Control and Appeal) Rules, 1971.

- (ii) Though the entire enquiry report is in favour of the Charged Officer but the findings in the concluding paragraph are against the Charged Officer. Thus, such enquiry report is based on perverse findings. Mr. Roy also points out that the copy of the recommendation of the Public Service Commission, West Bengal to the respondent authority was not served upon him.

The Rules referred to by Mr. Roy under West Bengal Services (Classification, Control and Appeal) Rules, 1971 is as follows :

“8.(iv) reduction to a lower stage in the time-scale of pay for a specified period with further direction as to whether or not the Government employee will earn increments of pay during the period of such reduction and whether on the expiry of such period the reduction will or will not have the effect of postponing the future increments of his pay ;

8.(v) reduction to a lower time-scale of pay, grade, post or service which shall ordinarily be a bar to the promotion of the Government employee to the time-scale of pay, grade, post or service from which he was reduced, with or without further directions regarding conditions of the restoration to the grade or post or service from which the Government employee was reduced and his seniority and pay on such restoration to that grade, post or service....”

As regards the failure of the respondent authorities to serve a copy of PSC's recommendation, Mr. Roy relies on the Rule 10, sub-rule 16 of West Bengal Services (Classification, Control and Appeal) Rules, 1971, the relevant portion is as under :

“Rule 10. Sub-rule 16. :

Orders passed by the disciplinary authority under sub-rule (9) or sub-rule (10) shall be communicated to the Government employee who shall also be supplied with a copy of the report of the enquiring authority and a statement of its findings together with brief reasons for disagreement, if any with the findings of the enquiring authority, unless they have already been supplied to him and also a copy of the advice, if any, given by the Commission and where the disciplinary authority has not accepted the advice of the Commission, a brief statement of the reasons for such non-acceptance.”

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Explaining that though the enquiry report referred to the inadvertent mistakes made by the Charged Officer and opined that no mala fide/gross mistake was committed by him, however, in the concluding part of the report, the enquiring authority remarked the following words :

“To conclude, it is clear that Shri Somnath Maiti, SRO-II and formerly BL & LRO, Jamuria under Paschim Bardhaman have committed negligence of duty and the Article of Charge-I as framed against the charged officer, Shri Somnath Maiti, SRO-II is clearly established.”

Referring to the report above, Mr. Roy is of the view that erring or making a mistake does not amount to gross negligence of duty and since the enquiring authority has clearly reported that such mistake was due to inadvertence or was committed unknowingly, therefore, it cannot be said that the Charged Officer willingly or knowingly committed such a mistake. Therefore, such punishment ought not have been imposed. Mr. Roy cites a judgment of the Hon'ble Supreme Court reported in (1997) 7 SCC 409 (paragraph 40, 41 and 42).

Let the submissions from the Department be heard on the next date and let the matter appear under the heading “Hearing” on 03.04.2025.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

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