

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 706 of 2023

Sabir Ali Mondal -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. M.N. Roy,
Mrs. Priya Sasmal,
Ld. Advocates.
For the State Respondent : Mr. G.P. Banerjee,
Ld. Advocate.

03
13.12.2023

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 for the contesting parties, the case is taken up for consideration sitting singly.

In today's hearing, Mr. Banerjee, learned counsel submits that though there is no specific rule enabling the DIG/Appellate Authority to remand back the case to the Disciplinary Authority but it is the administrative practice. In this case, this higher authority having found some procedural inconsistencies in the final order, the same was pointed out to the Disciplinary Authority. As the Appellate Authority he can take such action but he cannot assume the responsibility of the Disciplinary Authority. Therefore, the Disciplinary Authority was required to pass a revised final order and there is nothing illegal about this. It is also submitted by Mr. Banerjee that had the Charged Officer seriously felt that there was a procedural lapse, he could have mentioned the same before the Disciplinary Authority during the personal hearing. Such observation could have also been mentioned in his appeal. Having stated the above, Mr. Banerjee also informs that the punishment imposed in the final order has already been executed. Concluding his submission, Mr. Banerjee wishes to file a detailed reply controverting some of the arguments earlier forwarded by Mr. Roy.

Disagreeing with what Mr. Banerjee has submitted above, Mr. Roy, however, emphasizes that as per the Memo. No. 104-GAC (Vig.) dated 14.03.1972, it is only the Vigilance Commission who has been empowered to move the Government, if so desired to review such order. But in this case,

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instead of the Commission, the DIG as the Appellate Authority took upon himself the power to review and remand the case back to the Disciplinary Authority.

Mr. Roy, learned counsel prays for an interim order restraining the respondents to give further effect to the final order passed by the Disciplinary Authority on 23.06.2023. However, Mr. Banerjee opposes such prayer for the reason that the punishment in the final order has also been executed and, therefore, there is no scope for staying the operation of the final order.

The Tribunal finds that since the final order has already been executed, the scope for passing an order restraining the respondents at this stage is impractical. Therefore, no interim order is passed.

Let the matter appear under the heading "**Further Hearing**" on **17.01.2024 at 10:00 a.m.** Let reply on behalf of the State be filed by the next date and rejoinder, if any, in the meantime.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS