

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J)

Case No. – OA 77 of 2020

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

Serial No. and Date of order	For the Applicant	: Mr. S.N. Ray, Learned Advocate.
<u>13</u> 11.04.2022	For the State respondent	: Mr. S. Ghosh, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The instant application has been filed basically challenging the punishment order dated 29.12.2019 as well as the disciplinary proceedings including the charge-sheet. As per the applicant, he was transferred from Choa Primary Health Centre, Murshidabad to Domkal, SSH, Murshidabad vide transfer order dated 07.09.2017. Against the said transfer order, he had approached this Tribunal in OA-445 of 2018, which was disposed of vide order dated 19.07.2018 with liberty to the applicant to join his duty at Domkal. The CMOH, Berhampore, Murshidabad was also directed to dispose of his representation and in pursuance to the said order, the CMOH, Murshidabad vide his reasoned order dated 17.09.2018 had allowed him to work as he had joined Domkal SD Hospital, Murshidabad in the meantime as per the liberty granted by this Tribunal. However, the respondent had issued one Charge-Sheet dated 08.03.2019 (Annexure-F), wherein it was alleged that he was unauthorisedly absent since 01.09.2017 for a long period, however, without mentioning the specific period of absence. The applicant replied to the said Charge-Sheet. However, he was imposed with a penalty of stoppage of one periodical increment for one year without cumulative effect in terms of Rule 8(ii) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 [in short, WBS (CCA) Rules, 1971]. The counsel for the applicant has vehemently submitted that though as per the Tribunals order dated 19.07.2018, he was allowed to join and thereafter he joined the said post and subsequently, the CMOH, Murshidabad has also confirmed his joining and allowed him to

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work vide order dated 17.09.2018. However, they have issued the charge-sheet without specifying the period of absence. Therefore, the charge-sheet is defective one and invalid in the eye of law. Thus, the subsequent final order was also liable to be quashed.

The counsel for the respondent has admitted the fact that no specific period has been mentioned in the charge-sheet. However, it has been submitted that the applicant was absent for certain period, which has to be regularised as per Service Rules. Therefore, he was rightly Charge-Sheeted for such unauthorised absence.

Heard the parties and perused the records. It is noted that the applicant had challenged the transfer order dated 07.09.2017 in OA-445 of 2018, which was disposed of vide order dated 19.07.2018 with a liberty to the applicant to join his duty at transferred post (Domkal, SSH, Murshidabad) as well as direct the respondent to dispose of his representation by way of a reasoned order. In pursuance to that, the CMOH, Murshidabad had passed a reasoned order allowing him to work in the transferred post with an observation that he had already joined the Domkal SD Hospital, Murshidabad as per the court's order. It was also observed in the said order that the pay of the absent period would be fixed after regularisation of his absence.

In that background, the respondents had issued the Charge-Sheet dated 08.03.2019 for unauthorised absence, however, without specifying the period of absence. Therefore, the said charge-sheet is vague in nature and liable to be quashed being invalid one as no specific period for unauthorised absence has been charged in the said charge-sheet.

Accordingly, I quash and set aside the charge-sheet dated 08.03.2019 as well as final order dated 09.12.2019. However, the respondents would be at liberty to take appropriate steps as per rules.

Accordingly, the OA is disposed of with the above observations and directions with no order as to costs.

CSM/SS

**URMITA DATTA (SEN)
MEMBER (J)**