

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-844 of 2021

Susanta Kumar Das VERSUS – The State of West Bengal & Ors..

Serial No. and Date of order For the Applicant : Mr. M.N. Roy,
Mr. G. Halder,
Learned Advocates.

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22.02.2023 For the State Respondents : None.

For the Pr. A.G.W.B.. Mr. B. Mitra..

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 counsel for the contesting party, the case is taken up for consideration sitting singly

Mrs. S. Das, learned advocate appears on behalf of Mr. S.N. Roy, learned advocate for the respondent on record.

The prayer in this application is for setting aside the entire disciplinary proceedings, enquiry report, second show cause notice and final order of punishment imposed by the respondent by a final order No. 398-ARD-15011 (15)/6/2021 dated Kolkata the 4th March, 2021 imposing a punishment of 20% pension cut for a period of three years.

The fact of this case in brief is that the applicant posted as a Joint Director in Jalpaiguri Division Office was asked by the Director of Animal Husbandry & Veterinary Services to visit the office of the Deputy Director in Sui, Birbhum and find out the latest position of the cash book and open a new cash book from the closing balance of the locker and report.

In compliance to this order, the applicant visited the office of Dy. Director, Birbhum on 22.09.2009 and performed his duty as per the instruction of his superior, the Director. However, as submitted by the applicant, he was shocked to receive a charge sheet from the Addl. Chief Secretary of the Department dated 23.07.2013. In which, the following charges were levelled against the applicant :-

- i) The applicant failed to verify the cash book and govt. cheques/bankers cheques of the said office.
- ii) Due to failure of the applicant in verifying the records and cash, he directly facilitated the cashier of the office to commit defalcation of huge government money.

As required, the applicant duly submitted his statement of defence denying all the charges levelled against him.

After completion of the enquiry, the respondent issued the second show cause notice to the applicant on 12.09.2017 which proposed punishment of pension cut of 20% for a period of three years. As required, the applicant again submitted his reply in defence and denied all the charges before the respondent on 06.11.2017. After completion of the formalities, it appears that the government finally issued the order on 04.03.2021 by which the punishment of 20% cut in pension for a period of three years was given.

In defence of the applicant, Mr. M.N. Roy submits the following “-

- i) The charge against him for facilitating the cashier to defalcate govt. money is absurd and as per the enquiry report such a defalcation was committed on or before 14.09.2009, whereas the applicant who is the Joint Director having his office in Jalpaiguri was asked by the Director to visit the office of Birbhum on 22.09.2009. Therefore, if such a defalcation had occurred on or before 14.09.2009, blaming it on the applicant is a miscarriage of injustice.
- ii) The Dy. Director, Birbhum who was not only the head of that office but also responsible for functioning of his office was imposed a lesser punishment of withholding of only 10% of his pension for only one year. As it is evident from the order of the respondent dated 21.11.2014 itself, the Dy. Director of Birbhum was charged for his negligence “to Supervise the work of Prasun Roy, cashier of his office properly”. It further states that, Dr. Das Bhowmick failed to physically verify the cash book and cash balance of his office at the end of each month being the D.D.O. and head of his office, which gave indulgence to Shri Prasun Roy, Cashier to commit defalcation of huge government money amounting to Rs. 58,39,890/- (Fifty eight lakh thirty nine

thousand eight hundred and ninety only)which is highly irregular thereby committed gross negligence and misconduct”.

Submission of Mr. Roy is that by this very specific charge levelled against Dr. Das Bhowmick, Dy. Director and Head of Birbhum office makes it clear that he, as the head of office , was not only solely responsible but also facilitated the defalcation of the government money by the cashier. By blaming the applicant and imposing 20% cut in pension as punishment is unfair and palpably gross injustice.

In conclusion, Mr. Roy submits that the charges and punishment imposed to the applicant is grossly disproportionate to the alleged charge and, therefore, prays for setting aside the entire departmental proceedings and punishment imposed on the applicant.

Let the submissions of learned counsel for the respondent be heard on the next date.

Let the matter appear under the heading Hearing on 20.03.2023

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

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