

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-932 of 2017

Pradip 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.
<u>19</u> 24.02.2022	For the State Respondent	:	Mr. S. Bhattacharjee, Learned Advocate.

As per the applicant, he was posted at Karimpur-II Development Block, Nadia as Panchayet Development Officer on 08.03.2016, however, due to his illness, he could not attend the duty from 01.12.2016 to 27.12.2016 and ultimately he resumed his duty on 28.12.2016. However, the then Block Development Officer of Karimpur-II Development Block, Nadia did not accept the joining letter and he was supplied with a show cause notice dated 07.12.2016 (Annexure-P/1). Though on the same day i.e. on 28.12.2016 he submitted his reply to the show cause (Annexure-P/2), however, on 29.12.2016, he was verbally asked by the Block Development Officer to submit an undertaking to the effect that he will attend office regularly in future and accordingly, the applicant submitted such undertaking on the same day (Annexure-P/3). In spite of such undertaking, the concerned Block Development Officer did not allow the applicant to resume his duties and he was served with a copy of Memo dated 14.02.2017 issued by the Block Development Officer, Karimpur-II Development Block asking for guidance from Sub-Divisional Officer, Tehatta, Nadia in respect of his absence from duty (Annexure-P/4). Subsequently, vide Memo dated 23.02.2017, issued by the Sub-Divisional Officer, Tehatta, Nadia, the applicant was asked to join his duty immediately within seven days and the applicant went to the office of the Block Development Officer, Karimpur alongwith a joining letter dated 09.03.2017 and was allowed to resume his duty on that day.

As per the applicant, he had submitted joining report alongwith medical certificate on 02.01.2017 (Annexure-P/5). Though the joining report

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of the applicant was received by the concerned Block Development Officer but he did not allow the applicant to join in the aforesaid situation, he has been continuing his job without any salary.

Subsequently, the applicant submitted representation on 03.05.2017 (Annexure-P/6) to the Block Development Officer, Karimpur-II and request to accept his joining report and sanction leave and release his current salary as well as arrear salary from the month of December, 2016. However, the concerned Block Development Officer vide Memo dated 12.05.2017, (Annexure-P/7) asked the applicant to report for duty with allegation that even after his joining on 03.05.2017, he had not been discharging his duty.

As per the applicant, even after joining on 03.05.2017, the concerned Block Development Officer did not allow the applicant to sign in the attendance register on the plea of non availability of service book. However, ultimately on 19.06.2017, he was allowed to sign on the attendance register (Annexure-P/9).

As per the applicant, though he was not put under suspension neither any departmental proceeding has been initiated against him, nor he has not been paid salary till date for which he made a detailed representation on 03.08.2017 (Annexure-P/10), which is still pending before the authority. It has been further submitted that in the meantime, he has been promoted to the post of Joint Block Development Officer against the quota for the year 2016 vide Notification dated 07.02.2020. However, his Last pay certificate and service book was not sent to the present place of posting i.e. at Berhampore Development Block, Murshidabad as it would evident from the letter dated 17.04.2020 issued by the Block Development Officer, Berhampore, Murshidabad to the Block Development Officer, Manikchak, Malda. Therefore, as per the applicant, no departmental proceeding has been initiated unless and until the final order has to be passed, the respondents has no authority to stop his salary even he has been promoted to the post of

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Joint Block Development Officer during the period. Therefore, he has prayed for release of his salary since December, 2016 till date.

The respondents have filed their reply wherein it has been stated that the applicant was absent in different spell for 268 days as on 30.11.2017. However, it has been submitted that they have recommended for initiation of departmental proceeding against him.

I have heard and perused the records. As per the applicant, he was absent for a short period of time in the year 2016, however, he had gone to join his duty but not allowed to join but till date no departmental proceeding has been initiated. Therefore, he should be paid salary from December, 2016 till date.

On the other hand, the counsel for the respondent has drawn my attention that they are in the process of contemplation of departmental proceeding against the applicant. However, they have not submitted the Memo by which the departmental proceeding has been initiated. It is noted that the applicant was absent; however, the respondents are not able to show that any departmental proceeding has been initiated against the applicant in this regard as he has been promoted to the post of Joint Block Development Officer from the post of Panchayet Development Officer.

Therefore, in my considered opinion, unless and until a final order in a departmental proceeding would be passed, there is no such provision to stop the salary without departmental proceedings. Accordingly, I direct the Respondent No. 2, Commissioner of Panchayet and Rural Development Department, West Bengal to release the salary of the applicant as per rules since December, 2016 till date (if had not been paid already) after verifying the period concerned within a period of four weeks from the date of receipt of the order. Accordingly, OA is disposed of with no order as to costs. The copy of the Notification dated 07.02.2020 regarding promotion to the post of Joint Block Development Officer whereby the applicant has been granted

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promotion and the Memo dated 17.04.2020 issued by the Block Development Officer, Berhampore Development Block, Murshidabad be kept with the record.

Since the circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

URMITA DATTA (SEN)
MEMBER (J)

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