WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

Hon'ble Justice Soumitra Pal, Hon'ble Dr. Subesh Kumar Das, Hon'ble Chairman & Administrative Member.

Case No. CCP 34 of 2019 (OA 71of 2019).

SANTANU ROY – VERSUS- SMARAKI MAHAPATRA, COMMISSIONER, COMMERICIAL TAXES, GOVERNMENT OF WEST BENGAL & OTHERS,

Serial No. and	VERSUS- SMARAKI MAHAPATRA, COMMISSIONER Order of the Tribuna		Office action with date
Date of order.	2		and dated signature
1			of parties when necessary 3
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4	For the Applicant :	Mr. A.K. Biswas,	
16.8.2019.		Mrs. S. Biswas,	
		Mr. A. Biswas, Advocates.	
		Advocates.	
	For the Contemnor O.P. :	Mr. G.P. Banerjee,	
		Advocate.	
	Santanu Roy, the	applicant, had filed an	
	original application being OA	71 of 2019, which after	
	hearing the learned advocat	tes for the parties, was	
	disposed of on 5 th March, 2019	9 by passing an order, the	
	relevant portion of which is as u	under :-	
	"Having hea	rd the learned advocates	
	for the parties and the depart	mental representative and	
	considering the facts and circu	imstances of this case, the	
	original application is disposed	d of by granting liberty to	
	the applicant to file application	n for voluntary retirement	
	in the prescribed format, if	available, or can file an	
	application disclosing all servi	ice particulars before the	
	Principal Secretary, Finance (I	Revenue), Government of	
	West Bengal – the respondent	no. 1, now designated as	
	Additional Chief Secretary, Fi	nance, within four weeks	
	from the date of obtaining a	copy of this order. If such	
	application is filed, same sha	II be disposed of by the	

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Vs.

SMARAKI MAHAPATRA, COMMISSIONER, COMMERICIAL TAXES, GOVERNMENT OF WEST BENGAL & OTHERS.

Case No. CCP 34 of 2019 (OA 71 of 2019).

of 2019 (OA 71 of 2019).	Office action to the dec
Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
Additional Chief Secretary, Finance, by passing a	
reasoned order to be communicated to the parties within	
twelve weeks after giving an opportunity of hearing and	
after verifying the records".	
Thereafter, the applicant on 12 th March, 2019	
had applied for voluntary retirement before the Principal	
Secretary, Finance (Revenue) department, Government	
of West Bengal. The grievance of the applicant is that the	
Commissioner, Commercial Taxes, West Bengal on 12 th	
March, 2019 has issued show cause notice, as he has not	
joined at Coochbehar, to render the order dated 5 th	
March, 2019 infructuous.	
Mr. A.K.Biswas, learned advocate for the	
applicant, submits that on 9 th July, 2019 the Joint	
Commissioner of Revenue, Commercial Taxes,	
Coochbehar charge has issued a memo dated 12 th March,	
2019 regarding absence of the applicant from 13 th	
December 2018 till 13 th March. A copy of the said memo	
furnished today be kept on record. Submission is in this	
manner instead of issuing format for applying voluntary	
retirement, the Commissioner is trying to render the	
order passed on 5 th March, 2019 infructuous. Be it noted	
that in this contempt application the Commissioner,	
	Additional Chief Secretary, Finance, by passing a reasoned order to be communicated to the parties within twelve weeks after giving an opportunity of hearing and after verifying the records". Thereafter, the applicant on 12 th March, 2019 had applied for voluntary retirement before the Principal Secretary, Finance (Revenue) department, Government of West Bengal. The grievance of the applicant is that the Commissioner, Commercial Taxes, West Bengal on 12 th March, 2019 has issued show cause notice, as he has not joined at Coochbehar, to render the order dated 5 th March, 2019 infructuous. Mr. A.K.Biswas, learned advocate for the applicant, submits that on 9 th July, 2019 the Joint Commissioner of Revenue, Commercial Taxes, Coochbehar charge has issued a memo dated 12 th March, 2019 regarding absence of the applicant from 13 th December 2018 till 13 th March. A copy of the said memo furnished today be kept on record. Submission is in this manner instead of issuing format for applying voluntary retirement, the Commissioner is trying to render the order passed on 5 th March, 2019 infructuous. Be it noted

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	Commercial Taxes, West Bengal is the alleged contemnor.	
	Mr. G.P. Banerjee, learned advocate	
	appearing on behalf of the alleged contemnor submits	
	that it is apparent from the order dated 5 th March, 2019	
	the applicant was directed to file an application in	
	prescribed format for voluntary retirement and if not	
	available liberty was granted to file such application	
	disclosing all service particulars before the Principal	
	Secretary, Finance (Revenue), Government of West	
	Bengal, – the respondent no. 1, now designated as	
	Additional Chief Secretary, Finance within four weeks.	
	According to him he has filed an application for voluntary	
	retirement, as evident from page 75 of the contempt	
	application, and it is apparent from the order dated 5 th	
	March, 2019 that there is no impediment on behalf of the	
	Commissioner to proceed against the applicant by issuing	
	show cause notice for his absence from 13 th December	
	2018 to 13 th March, 2019. Therefore, there is no question	
	of rendering the order passed on 5 th March, 2019 in OA	
	71 of 2019 as infructuous as it is a separate matter	
	altogether. It is submitted on instruction that the order	
	dated 5 th March, 2019 is yet to be served on the	
	Additional Chief Secretary, Finance (Revenue),	

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	Government of West Bengal.				
	Having heard Mr. Biswas and Mr. Banerjee ,				
	since by order dated 5 th March, 2019 passed in OA 71 of				
	2019 the Principal Secretary, Finance (Revenue),				
	Government of West Bengal, – the respondent no. 1, was				
	directed to consider the application for voluntary				
	retirement of the applicant and as the Commissioner,				
	Commercial Taxes, the alleged contemnor, who has				
	issued the show cause notice to the applicant is in no way				
	involved in the matter as apparent from the order dated				
	5 th March, 2019 passed in OA 71 of 2019, the contempt				
	application is not tenable and is thus dismissed.				
	(Subesh Kumar Das) (Soumitra Pal) Member (A). Chairman.				
Skg.					