

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL**Present-

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

The Hon'ble Mr. P. Ramesh Kumar, Member(A)

Case No – MA – 196 of 2019 (OA- 392 of 2019).Satya Prakash Mishra. Vs The State of West Bengal & Others.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>07</p> <hr/> <p>23/09/2019</p>	<p>For the Applicant : Mr. M.N. Roy, Ld. Advocate.</p> <p>For the State Respondents: Mr. A.K. Das Sinha, Ld. Advocate.</p> <p>The instant MA has been filed praying for following relief;</p> <p>a) An order do issue thereby setting aside/quashing the Disciplinary Proceeding so initiated against the applicant vide Memorandum No.1013-DCA/O/Con-03/16 dated 15.09.2016, enquiry report, Show cause notice No.1691-DCA dated 10.01.2017, second time show cause notice no.1492-DCA/O/CON-03/2016 Dated 01.12.2017, final Order of punishment vide Order No.1571-DCA/O/CON-03/2016 (Pt) dated 22.11.2018, whereby punishment has been imposed as per the provision of sub rule (ii) and sub rule (iv) of Rule 8 of West Bengal Services (Classification, Control and Appeal) Rules, 1971 with immediate effect.</p> <p>b) A further order do issue directing the respondent authorities to transmit records</p>	

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	<p>pertaining to the instant case so that conscionably justice can be done.</p> <p>c) Any other appropriate order/orders direction/directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.</p> <p>During the course of hearing the counsel for the applicant has drawn our attention to one Memo dated 18.06.19 issued by the Additional Secretary to the Government of West Bengal, Department of Correctional Administration to the OSD & E.O. DG & IG of Correctional Service which is as follows:</p> <p>“As per available records, no such order has been issued by this Department before issuance of this Department's order No.1571-DCA/O/Con-03/2016(Pt.) dated 22.11.2018 regarding penalty imposed in the Departmental Proceedings against him.”</p> <p>The counsel for the applicant has also drawn our attention to the original impugned punishment order, which is as follows:</p>	

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	<p>“Reduction of basic pay by three increments in the time scale of pay held by him, for one year. He will not earn any increment during the period his undergoing penalty i.e. 1(one) year from the date of issue of this order. On completion of one year and on expiry of the period the reduction will not have the effect of postponing his future increments.”</p> <p><i>Therefore, as per the counsel for the applicant as the impugned order, which is under challenge is prospective one and even if would sustain it would have prospective effect from the date of issuance of the order i.e. 22.11.2018. Therefore, the applicant is entitled at least for increment of 2016, 2017 & 2018. Therefore, he has prayed for a direction to the respondent to disburse his increment.</i></p> <p><i>However, as per the counsel for the respondent, the applicant is not entitled to get any increment from the date of issuance of charge sheet till the date of passing of the order.</i></p> <p><i>We have heard both the parties and perused the records. It is noted that the Additional Secretary</i></p>	

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GM	<p><i>has himself recorded that as per available records no order with regard to the withholding of increment is available with them. Further, as per the impugned order also the punishment will be effective from the date of issuance of the order i.e. from 22.11.2018. Therefore, the respondents cannot withhold the increment prior to the date of issuance of the order. Therefore, respondents are directed to disburse the annual increment w.e.f. 01.07.16 to the date of issuance of impugned order as per their letter dated 18.06.19. However, we are not agreeable with the contention of the respondents as no punishment can be imposed retrospectively even the punishment itself had made it clear that it will come into force from the date of issuance of the order. Accordingly, MA is disposed of with the above direction. OA be listed on 17.12.2019 for admission hearing.</i></p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	