

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL  
BIKASH BHAVAN, SALT LAKE CITY  
K O L K A T A – 7 0 0 0 9 1**

**Present :-**

**The Hon'ble Mrs. Urmita Datta (Sen)  
MEMBER ( J )**

**-AND-**

**The Hon'ble Mr. P. Ramesh Kumar  
MEMBER ( A )**

**J U D G E M E N T  
-of-  
Case No. OA-316 of 2016**

**Aloka Roy.....Applicant.**

**-Versus-**

**State of West Bengal & others....Respondents**

**For the Applicants:-**

**Mr. Manujendra Narayan Roy,  
Learned Advocate.**

**For the State Respondents**

**:- Mr. Goutam Pathak Banerjee,  
Biswa Priya Roy,  
Learned Advocates.**

**Judgement delivered on :**

**The Judgement of the Tribunal was delivered by :-  
Hon'ble Mrs. Urmita Datta (Sen), Member(J)**

**J U D G E M E N T**

The instant application has been filed praying for the following reliefs :-

- (a) An order do issue directing the concerned respondent authorities to quash/set aside the enquiry report dated 11-03-2015, the second show cause notice vide Order No. 122 dated 19-02-2016 and the Final Order of Punishment vide Order No. 156/pach dated 04-03-2016 issued by the District Magistrate, Uttar Dinajpur being the Disciplinary Authority passed in connection with departmental proceeding no. 01/Con/Panch/X-12/2003 dated 23-03-2007 drawn up against your applicant.
- (b) An order do issue directing the concerned respondent authorities to quash/set aside the entire departmental proceeding being numbered as 01/Con/Panch/X-12/2003 dated 23-03-2007 drawn up against your applicant including the enquiry report dated 11-03-2015, Order No. 122 dated 19-02-2016 and the Final Order of Punishment vide Order No. 156/pach dated 04-03-2016 issued by the District Magistrate, Uttar Dinajpur being the Disciplinary Authority.
- (c) An order do issue directing the respondent authorities not to give effect or further effect to the Order No. 156/pach dated 04-03-2016 issued by the District

**Magistrate, Uttar Dinajpur being the Disciplinary Authority in connection with 01/Con/Panch/X-12/2003 dated 23-03-2007 drawn up against your applicant.**

**(d) A further order do issue directing the respondent authorities to transmit all records pertaining to the instant case so that conscionably justice can be done.**

**(e) 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.**

As per the applicant, she was initially engaged as Job Worker for the period from 07-12-1977 to August, 1978 and again on July, 1984 to 31<sup>st</sup> March, 1987. Subsequently in pursuance to the Notification regarding vacancy of Clerk and Typist-Clerk, the applicant was selected vide Memo dated 30-03-1987 and consequently vide Memo No. 1507 dated 01-04-1987, the respondent authorities issued appointment letter to the applicant for the post of Typist-Clerk (Annexure-A).

According to the applicant, though she is a member of Schedule Caste community but she got the job for the post of Typist-Clerk on the basis of her merit only as would be evident in the panel prepared by the respondent authorities before issuance of appointment letter (Annexure-B).

However in the meantime on 05-04-1988, the Sub-Divisional Officer, Raigunj cancelled the Schedule Caste Certificate issued in favour of the applicant without conducting a proper enquiry as well as granting opportunity before such cancellation. As per the applicant, she never took advantage of the Schedule Caste certificate, which would be evident from the submission of the respondents in OA No. 632 of 2003, which was challenged for non-granting of promotion in favour of the applicant. However the applicant was served with a charge Memo dated 23-03-2007 without any enclosures or documents (Annexure-C), alleging that the applicant procures the government service as Typist-Clerk under Community Development Set up by adopting unfair means by way of obtaining false Schedule Caste certificate .

The applicant made representation dated 29-03-2007 before the Enquiry Authority to supply her relied upon documents followed by further application dated 30-03-2007 before the District Magistrate, Uttar Dinajpur (Annexure-D).

However without supplying any documents, the Disciplinary Authority appointed Enquiry Officer. Further without supplying necessary documents, the Disciplinary Authority vide Memo dated 16-03-2011 passed the punishment order of termination (Annexure-F).

Being aggrieved with, the applicant filed OA-830 of 2011 which was disposed of by order dated 11-11-2011 granting liberty to the applicant to file appropriate appeal before the Appellate Authority and the Appellate Authority was also directed to take decision and communicate the same to the applicant (Annexure-G).

In pursuance to the said order, the Appellate Authority consider the appeal of the applicant and vide order dated 10-10-2013 directed the Divisional Commissioner, Jalpaiguri to examine the matter afresh in accordance with the law after supplying the relevant paper/documents (Annexure-H).

However the applicant again filed one OA-1374 of 2013, which was disposed of on 22-01-2014 by modifying the order of the Appellate Authority. Being dissatisfied and aggrieved with by the order dated 22-01-2014, one writ petition of W.P.S.T. No. 159 of 2014 was filed in Hon'ble High Court, Calcutta, which was disposed of by order dated 07-07-2014 with a direction to the authority to reinstate the applicant. However, liberty was granted to the respondent to take action to suspend the applicant in accordance with law and to complete the enquiry within 4(four) months after the petitioner reinstated in the service (Annexure-I).

In pursuance to the said order, the applicant was reinstated in service and the departmental enquiry was conducted afresh, and thereafter the District Magistrate, vide order dated 19-02-2016

proposed for the punishment of compulsory retirement (Annexure-K).

Subsequently the Disciplinary Authority vide his order dated 04-03-2016 imposed a penalty of compulsory retirement (Annexure-L). Being aggrieved with, the instant application has been filed by the applicant.

As per the applicant, the Disciplinary Authority without application of judicial mind and only on the basis of the enquiry report, had imposed the punishment, which is liable to be set aside and quashed.

Though, enough opportunity was granted to the respondent to file their reply. However the Counsel for the respondent has submitted that he will not file any reply on 02-08-2018 order. The Counsel for the respondent has further submitted that from the perusal of the panel of selected candidates dated 30-03-1987 (wherein the name of the applicant has been shown against the serial no. 4), it would transpire that her category has been clearly indicated as Schedule Caste. Therefore undoubtedly at the time of her appointment, she was considered as Schedule Caste candidate on the basis of Schedule Caste certificate, which was procured by fraudulent means and was subsequently cancelled by the competent authority on 05-04-1988 as has been admitted by the applicant in Para 4(v) of the instant OA.

Therefore the main allegation that she obtains government service on the basis of a false certificate is proved beyond any doubt. Therefore, the Disciplinary Authority has rightly imposed order of compulsory retirement.

We have heard both the parties and perused the records. It is noted that the applicant was charge sheeted with the allegation that she somehow manage to procure government service and joined the office of Block Development Officer, Kusmandi on 1<sup>st</sup> April, 1987 as Typist-Clerk under Community Development Set up by way of obtaining of false Schedule Caste certificate, which was subsequently cancelled by the Sub-Divisional Officer, Raigunj on 05-04-1988. It is further observed that in the penal of selection for the post of Typist-Clerk (Annexure-B), she has been described as Schedule Caste candidate. The Order of District Magistrate, Uttar Dinajpur very clearly mentioned that specified representation of different categories has been followed while preparing the panel of candidates.

Further, it has been submitted by the applicant that her Schedule Caste Certificate had been cancelled by SDO, Raigunj on 05-04-1988, however it has not been even challenged by the applicant.

In view of the above, we do not find any reason to interfere with the impugned order. Accordingly, we dismiss the OA with no order as to cost.

**P. RAMESH KUMAR**  
MEMBER (A)

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

