



**Case No. OA-721 of 2017.**

**Tapas Kumar Hazra.....Applicant.**

**-Versus-**

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

**For the Applicant                             :-    **Mr. Asim Hati,  
Learned Advocate.****

**For the State Respondents             :-    **Mr. Manujendra Narayan Roy,  
Learned Advocate.****

In the instant application, the applicant has prayed for following reliefs :-

*“a. An order do issue by directing the Respondent authorities to execute the Judgement dated 12.12.2016 in its true term and spirit.*

*b. An order do issue by directing the Respondent authorities to extend the benefit of CAS in favour of the applicant as per the judgement dated 12.12.2016 forthwith.*

*c. An order do issue by directing the Respondent authorities to disburse 3 years increment from 15.01.2007 to 15.01.2009 forthwith.*

*d. An order do issue by directing the Respondent authorities to extend the promotional benefit to the post ASI from 2003 forthwith.*

*e. An order directing the concerned respondents to produce all the relevant records in original pertaining to the instant case so that conscionable justice may be administered upon the applicant.*

*f. And pass any such other further order / orders and/or direction or directions as your Honour may deem fit and proper."*

Heard the parties.

With regard to the filing of the instant application under Section 19 and 27 of the Administrative Tribunal Act, 1985, the applicant has submitted that he has filed the instant application praying for execution of the order dated 12.12.2016 passed in O.A.-1152 of 2013, wherein the following order was passed :-

*" Accordingly, both the final order and the appellate order under challenge are liable to be set aside.*

*In the facts above, we allow the application. We set aside the final order dated 30.04.2006 and the appellate order dated 12.06.2006.*

*We do not think it proper also to direct the authority concerned to re-start the proceeding from the date of receiving of the enquiry report of Sri D.P.Sarkar dated 14.06.2001 because a period of 15 years has already been elapsed. It would be a travesty of justice if the matter is re-opened.*

*Accordingly, the OA stands disposed of without cost. "*

It is observed that Section 27 of the Administrative Tribunal Act, 1985 has stipulated as follows :-

*" 27. Execution of orders of a Tribunal.- Subject to the other provisions of this Act and the rules, [the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including*

*a High Court) and such order] shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed."*

It is noted that Section 27 has empowered the Tribunal to execute its own order whereas, an application under Section 19 can only be filed against any order of Government or local authority by which he is aggrieved subject to fulfilment of provisions of Section 20 of the Act.

In the instant case, the applicant has filed the instant application under Section 19, basically praying for a direction to the respondent authorities to execute the judgment dated 12.12.2016.

As per the applicant, he was punished with a stoppage of 03 increments with cumulative effect by the Disciplinary Authority, which was further affirmed by the Appellate Authority by way of rejecting his appeal and being aggrieved with, the applicant had earlier approached this Tribunal in OA-1152 of 2013. This Tribunal had quashed and set aside the Disciplinary Authority's order dated 30.04.2006 and Appellate Order dated 12.06.2006 and also observed not to direct the authority concerned to re-start the proceeding after a long gap of time. However, in consequence to that quashing of the order of punishment the respondents did not extend the benefit of CAS in favour of the applicant and promotion to the post of ASI from 2003 onwards. Even 03 (three) years increments from 15.01.2007 to 15.01.2009 was also not disbursed.

From the perusal of the judgment dated 12.12.2016 passed by this Tribunal in earlier O.A. being no. 1152 of 2013 as well as Section 27 of the Administrative Tribunal Act, 1985, it is observed that for execution of final order of this Tribunal primarily there must be any mandatory direction which has to be executed under this provision. However, from the perusal

of the judgment, it is further observed that this Tribunal had only quashed and set aside the final order dated 30.04.2006 and appellate order dated 12.06.2006 with an observation that due to the afflux of time there is no need to restart the proceedings from the date of receiving of the enquiry report. Therefore, there is no other mandatory direction which has to be executed under Section 27.

It is further observed that the applicant in earlier O.A. being no. 1152 of 2013 had prayed for following reliefs :-

*“ a. An order directing the concerned respondent No. 2 to forthwith cancel or set aside the impugned order dated 30.04.2006 passed in proceeding No. 2/99 dated 09.3.99.*

*b. An order directing the concerned respondents to forthwith restore the three annual increments with cumulative effect and promotion to the applicant granting his CAS benefit and all consequential service benefits by revoking, cancelling the final order dated 30.4.2006 imposed upon him by the disciplinary authority.*

*c. An order directing the concerned respondent to produce all the relevant records in original pertaining to the instant case so that conscionable justice may be administered upon the applicant.*

*d. And pass any such other further order / orders and /or direction or directions as your Honour may deem fit and proper.”*

Thus, from perusal of the earlier order as well as the reliefs claimed for by the applicant, it transpires that though in earlier O.A. the applicant had specifically prayed for quashing of the impugned order dated 30.04.2006 in paragraph 9(a) further he had specifically prayed for direction to the respondents to restore three annual increments and promotion as well as CAS benefit and all other consequential service benefits under prayer 9

(b). However, this Tribunal had only quashed the order dated 30.04.2006 as well as the appellate order dated 12.06.2006 but did not grant any relief or direction as per prayer 9(b). Therefore, in our considered opinion there was no mandatory direction for granting of any consequential benefits like CAS, promotion or increments etc. Further it is not the case of the applicant that the order of this Tribunal by which the Disciplinary Proceeding was set aside has not been implemented.

In our view, all these benefits may be consequential to the quashing of the order of the punishment. However, instead of filing any review petition and /or appeal or representation with regard to his grievance in regard to the non-extension of CAS benefit, promotion, increment etc., he has straightaway filed an application under Section 19 for execution of our earlier order dated 12.12.2016.

Therefore, in the instant case, the applicant is neither directly aggrieved by any final order of the authority nor he had made any representation before the authority, which was not considered by them and after waiting for some statutory period he has approached this Tribunal.

Therefore, this application cannot be treated as an application under Section 19 for execution of earlier order under Section 27 as it is not fulfilling the conditions stipulated in Section 20 (2) of the Administrative Tribunal Act, 1985.

Accordingly, the application is dismissed in view of the observation with no order as to cost.

**DR. A.K. CHANDA**  
**MEMBER (A)**

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