

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

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

The Hon'ble Dr. Subesh Kumar Das, Member (A)

Case No – OA- 307 of 2020.**Ranjit Kumar Paul. 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>11</p> <hr/> <p>18/09/2020</p>	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Ld. Advocates</p> <p>For the State Respondents: Mr. S. N. Ray, Ld. Advocate.</p> <p>The counsel for the applicant today has submitted that he was suspended vide order dated 28.11.2018 under Rule 7(1)(a) of WBS (CC&A) Rules 1971, However till date neither his suspension has been reviewed nor any disciplinary proceeding has been initiated. Therefore, the counsel for the applicant has submitted that the suspension of the applicant should be quashed and set aside. During the course of hearing, he has referred the case of AJAY KUMAR CHOUDHARY – VERSUS- UNION OF INDIA THROUGH ITS SECRETARY AND ANOTHER reported in (2015) 7 SCC 291 as well as order dated 24.02.2020 passed by this Bench in OA No.1 of 2020, Siddhartha Sen & 3 Others –vs- State of West Bengal & Others (Annexure D) and has prayed for extension of benefit of those judgements.</p> <p>During the course of hearing the counsel for the respondent has referred communication</p>	

ORDER SHEET**Ranjit Kumar Paul.**

Form No.

Vs.**The State of West Bengal & Others.**Case No OA- 307 of 2020 .

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>dated 27.02.2020 made by Excise Commissioner to the Additional Chief Secretary, Finance Department. Let the letter dated 27.02.2020 be kept on record. In the aforesaid letter dated 27.02.2020, it is observed inter alia;</p> <p>“With reference to the subject noted above, I am to inform you that Sri Ranjit Kumar Paul, DEC, Ranaghat Range, Nadia was placed under suspension vide order No.C-281E dated 28.11.2018 in the wake of occurrence of an incident of liquor poisoning on 28.11.2018 at Nrishinghapur Choudhurypara under Shantipur Excise Circle in the district of Nadia, which claimed the lives of several people.</p> <p>Sri Subrata Biswas, Special Excise Commissioner (Enforcement) was entrusted with conducting a preliminary enquiry into the matter to assess the negligency, if any, on the part of Sri Paul. Accordingly, the SEC(E) has submitted his report of enquiry dated 06.12.2019 which is enclosed herewith for kind perusal.</p> <p>It transpires from the report of enquiry that there had been nothing incriminatory on the part of Sri Paul in regard to his supervisory role prior to the said incident of liquor poisoning.</p>	

ORDER SHEET

Ranjit Kumar Paul.

Form No.

Vs.

The State of West Bengal & Others.

Case No OA- 307 of 2020.

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>It is also mentioned that all other excise personnel, who had been put under suspension following such incident of liquor poisoning were duly reinstated following a detailed enquiry in that regard (copy of report of such enquiry is also enclosed herewith).</p> <p>Under the circumstances, as the enquiry does not reveal anything sufficient to implicate Sri Paul, he may be exonerated and reinstated on revocation of order of suspension.”</p> <p>“The Hon’ble Apex Court, while dealing with the issue of suspension, has held that the currency of suspension order should not extended beyond three months, if within this period, the Memorandum of Charges or Charge Sheet are not served upon the delinquent officer. In the instant case, admittedly the applicant was put suspension order vide order dated 28.11.2018 under Rule 7(1) (a) of the West Bengal Services (Classification, Control and Appeal) Rules 1971, which is as follows:</p> <p>“7. (1) (a)The appointing authority or (b) any authority to which it is subordinate or (c) any authority empowered by the Governor in that</p>	

ORDER SHEET

Ranjit Kumar Paul.

Form No.

Vs.

The State of West Bengal & Others.

Case No OA- 307 of 2020 .

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>behalf may place a Government employee under suspension:</p> <p>(a) Where a disciplinary proceeding or departmental enquiry against him is contemplated or is pending; or</p> <p>(b) Where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or</p> <p>(c) Where a case against him in respect of any criminal offence is under investigation or trial.</p> <p>Provided that where the order of suspension is made by an authority lower than the appointing authority, such authority shall forthwith report to the appointing authority the circumstances in which the order was made.”</p> <p>From the above, it is clear that an employee can be put under suspension under Rule 7(a), if there is a contemplation of the</p>	

ORDER SHEET

Ranjit Kumar Paul.

Form No.

Vs.

The State of West Bengal & Others.

Case No OA- 307 of 2020.

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>Departmental Proceedings against him. However, as per settled Law, it cannot be continued beyond a reasonable period of time. Further if someone has to be continued under suspension then suspension order should be reviewed within three months and the authority concerned should consider whether the suspension would be continued or not. If they would decide to continue suspension then subsistence allowance has to be enhanced. But in the instant case, admittedly no review has been made nor subsistence allowance has been enhanced even no disciplinary proceedings has been initiated against the applicants. As the suspension is not a punishment but to keep aside the delinquent employee from influencing the witnesses. In view of the above, suspension cannot be use as a weapon for punishment purpose. As the rule does not permit such continuation without review, we are of the view that the instant suspension order is not sustainable. Accordingly, the suspension order is quashed and set aside. However, as there is a serious charge against the applicant, the respondents would be at liberty to take appropriate steps as</p>	

ORDER SHEET**Ranjit Kumar Paul.**

Form No.

Vs.**The State of West Bengal & Others.**Case No OA- 307 of 2020 .

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
GM	<p>per Rules.</p> <p>Respondents are directed to allow the applicant to resume his duty within two weeks from the date of receipt of the order.</p> <p>The O.A. is disposed of.</p> <p>(SUBESH KUMAR DAS) URMITA DATTA(SEN) MEMBER(A) MEMBER(J)</p>	