

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

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

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

Case No OA - 118 of 2017**Moumita Mondal –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 style="text-align: center;"><u>9</u> 18.04.2019</p>	<p><i>For the Applicant : Mr. S.K. Mondal, Advocate.</i></p> <p><i>For the Respondents : Mr. S. Ghosh, Advocate.</i></p> <p><i>The instant application has been filed praying for the following relief:</i></p> <p><i>“(i) Directing the respondent authorities concerned, each one of them, their men, agents, servants, subordinates and/or assigns to forthwith rescind/withdraw/cancel the Order of Suspension dated September 1, 2016 under No-C/399 issued by the Director of Health Services, West Bengal, being the respondent no. 3 herein.</i></p> <p><i>(ii) Directing the respondent authorities concerned, each of them, their men, agents., servants, subordinates and/or assigns to forthwith allow the applicant to resume her official duty as a Staff Nurse at Basantia Block Primary Health Centre and also release the salary, service</i></p>	

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	<p><i>benefits accrued during her period of suspension.</i></p> <p><i>(iii) Rule Nisi in terms of prayers (i) and (ii) as above.</i></p> <p><i>(iv) Any other or further order or orders and/or direction or directions as this Hon'ble Tribunal may deem fit and proper.</i></p> <p><i>(v) Leave may be granted to move this application."</i></p> <p><i>As per the applicant, while she was working as Staff Nurse Grade – II, at Basantia Block Primary Health Centre on the basis of a complaint lodged by one Bhim Charan Mondal i.e. father-in-law of the applicant under Sections 306/34 of the India Penal Code, 1860, which resulted in to Contai Police Station Case No. 118 of 2016. She was arrested on such complaint on 1st July, 2016 and was detained in custody for a period of exceeding 48 hours and subsequently was discharged on bail on 8th September, 2016. Even no disciplinary proceeding has yet been initiated till date. However, the respondent vide their order dated 01.09.2016 (Annexure-D) put her under suspension under Rule 7, Sub-Rule (3) Clause (a) of West Bengal Services</i></p>	

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	<p><i>(Classification, Control and Appeal) Rules, 1971. But till date, neither her suspension has been reviewed nor revoked by the department though she had made representation to that effect before the authority. Even no review has been made in the mean time after a long three years also. Being aggrieved with, she has filed the instant application.</i></p> <p><i>During the course of the hearing, the counsel for the applicant had vehemently submitted that she was arrested on a private dispute which has no relation with the official work of the applicant. Further, she was not in a position to influence any of the witnesses. Therefore, such prolonged suspension even without reviewing the same is illegal and bad in law.</i></p> <p><i>Though the respondents have not filed any reply. However, the counsel for the respondent has submitted that the applicant had already filed one application before the authority which was subsequently forwarded by the C.M.O.H. of Nandigram Health District vide communication dated 14.12.2016 (Annexure-F) and still pending before the competent authority. They are ready to consider the matter as per Rules and Law. The counsel for the applicant has submitted that it would suffice her purpose</i></p>	

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A.K.P.	<p><i>if the respondent would be directed to review the case of the applicant in the light of the fact of this case within a stipulated period of time.</i></p> <p><i>We have heard both the parties and perused the records. It is noted that the applicant was arrested on a private dispute, which had no relation with her official capacity and she being a Staff Nurse was not in a position to influence the witnesses or the criminal process because there is no disciplinary proceedings against her. Further, keeping a person under suspension without taking her service with subsistence allowances will not serve the interest of the respondents by not utilising her service. Therefore, as the respondents are ready to review the matter of the applicant in proper prospect, the Director of Health Services i.e. respondent No. 2 is directed to review the case of the applicant in the proper prospect taking into account the facts and circumstances of the case and to take decision and communicate the same within a period of eight weeks from the date of receipt of the issue. Accordingly, the O.A. is disposed of with no order as to cost.</i></p> <p>P. RAMESH KUMAR MEMBER (A)</p> <p>URMITA DATTA (SEN) MEMBER (J)</p>	