

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 – OA- 376 of 2019.Amitava Mjumder. 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>04</p> <hr/> <p>01/10/2019</p>	<p>For the Applicant : Mr. G.P. Banerjee, Ld. Advocate.</p> <p>For the State Respondents: Mr. S. Ghosh, Ld. Advocate.</p> <p><i>The instant application has been filed praying for following relief;</i></p> <p><i>“a) A direction do issue upon the concerned respondent authorities to forthwith quash/set aside/withdraw/rescind/cancel the instant departmental proceeding so drawn up against the applicant under Establishment Order No.424/16 dated 21.11.2016 by the Director General, West Bengal Fire & Emergency Services after withdrawing the order of suspension dated 24.11.2016 as well as to allow the applicant to join his duties treating the period of suspension as ‘spent on duty,’ being Annexure-‘A’ and ‘C’ herein and to command them to act strictly in accordance with law;</i></p> <p><i>b) A direction do issue upon the concerned respondent authorities to forthwith produce and/or cause to be produced entire records relating to the applicant’s case and on such production being</i></p>	

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	<p><i>made, render conscionable justice upon perusing the same;</i></p> <p><i>c) And/or to pass such other or further Order or Orders as to this Hon'ble Tribunal may deem fit and proper.</i></p> <p><i>As per the applicant, he was put under suspension vide order dated 24.11.2016. However, till date no review has been made with regard to the suspension neither subsistence allowance has been enhanced. Prior to that one disciplinary proceeding on the self-same allegation was initiated on 21.11.2016. Though the entire proceeding has already been completed but neither the suspension has been revoked/reviewed nor any final order of disciplinary proceeding has been passed till date. Being aggrieved with the applicant has filed the instant application. On 5.7.19 the counsel for the applicant has prayed for interim protection and the respondents were directed to file appropriate reply. The counsel for the respondents four weeks' time to file reply and the respondents were also granted liberty to review the impugned suspension order.</i></p> <p><i>However, today the counsel for the respondent has placed one letter dated 26.09.2019 and has submitted that the report of the enquiry authority has already been submitted before the</i></p>	

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	<p><i>disciplinary authority and final order will be passed soon. On query, he has further submitted that no review with regard to the suspension of the applicant from 2016 has been done so far. However, he has prayed for further time to file reply.</i></p> <p><i>However, during the course of hearing the counsel for the applicant has drawn our attention to the Memo dated 26.07.18 issued by the Deputy Secretary to the Government of West Bengal to the Director General of West Bengal Fire & Emergency Services, whereby the Government had directed to take necessary action for review of substantial question of suspension and payment of subsistence allowance with regard to the application. Even then till today neither review has been made with regard to the suspension nor any final order with regard to departmental proceeding has been passed. Therefore, he has prayed for interim order for quashing of the suspension order as it has not been reviewed by the respondents.</i></p> <p><i>Heard the parties and perused the records.</i></p> <p><i>It is noted that the counsel for the respondent has prayed for some more time to issue final order with regard to the disciplinary proceeding. In the meantime, it is further noted that the Deputy Secretary to the Government of West Bengal vide his</i></p>	

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GM	<p><i>letter dated 20.07.18 had directed the respondents to review the suspension of the applicant. Even as per the rules, after 90 days review to be made with regard to the substantive issue of suspension as well as subsistence allowance. But, even then from 2016 onwards, no review has been made though vide our order dated 5.7.19, we had granted liberty to review of the suspension order.</i></p> <p><i>In view of the above, the respondents are granted time to file their reply. They are at liberty to take appropriate step in disciplinary proceeding. However, as balance of convenience is in favour of the applicant and since the suspension order has not been review till date, We quash the suspension order dated 24.11.2016 and direct the respondents to allow the petitioners to join. Let the matter appear on 09.01.2020.</i></p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	