

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J) &
The Hon'ble P. Ramesh Kumar, Member (A)

OA- 515 of 2019

Satyen Bardewa Vs. The State of West Bengal & Ors.

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
<u>02</u> 29.07.2019	<p>For the petitioner : Mr. B.P. Roy, Mr. S. Bhattacharya Learned Advocates.</p> <p>For the respondent : None.</p> <p style="text-align: center;">The instant application has been filed praying for following relief :-</p> <ol style="list-style-type: none">1. An order do issue upon the respondent authorities to quash/cancel/revoke/set aside/rescind/dismiss the impugned suspension order dated 23.09.2013.2. An order do issue upon the respondent authorities to forthwith reinstate the applicant to his post and position of GDA (M) under the Mirik BPHC.3. An order do issue upon the respondent authorities for reimbursement of his entire period of suspension after treating the said period as spent on duty.4. Any other appropriate order/orders, direction/directions as this Hon'ble	

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<p style="text-align: center;">02 29.07.2019</p> <p>Page /2</p>	<p style="text-align: center;">Tribunal may deem fit and proper in the interest of justice.</p> <p>As per the applicant he was arrested under Section 143/144/145/186/341/353/506/120 (B) of IPC read with Section 16 of the State Highway Act and was arrested on 29.02.2013 in GR No. 281 (1) before the Judicial Magistrate (1st Class) at Mirik, Dist. Darjeeling and was under jail custody. In the above circumstances, he was put under suspension under Rule 7(1) of WBS (CCA) Rules, 1971 vide order dated 20.09.2013 (Annexure-A/1). However, according to the applicant till date, neither his suspension order was reviewed nor any disciplinary proceeding has been initiated. Therefore, as per the applicant, the respondents have violated Rule 71 of W.B.S.R. Part-I, which stipulated that the review of subsistence allowance and substantive question of suspension ought to be reviewed within three months from the date of suspension but in the instant case though almost six years has lapsed neither any review has been done with regard to his suspension or subsistence</p>	

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<p style="text-align: center;">02 29.07.2019</p> <p>Page /3</p>	<p>allowance nor any disciplinary proceeding has been initiated. Therefore, according to the applicant, the contention of suspension is totally illegal and bad in law. Being aggrieved with he has filed the instant application.</p> <p style="text-align: center;">None for the respondents. Notice has been served upon the respondents.</p> <p style="text-align: center;">Rule 7(1) of WBS (CCA) Rules, 1971 stipulates interalia :-</p> <p>(a) The appointing authority or (b) any authority to which it is subordinate or (c) any authority empowered by the Governor in that 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</p>	

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<p style="text-align: center;">02</p> <hr/> <p style="text-align: center;">29.07.2019</p> <p style="text-align: center;">P/4</p>	<p style="text-align: center;">activities prejudicial to the interest of the security of the State; or</p> <p style="text-align: center;">(c) Where a case against him in respect of any criminal offense is under investigation or trial.</p> <p style="text-align: center;">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 style="text-align: center;">As the applicant was suspended under Rule 7(1) which is specifically stipulated in contemplation of initiation of the departmental proceedings, however, the respondents have not initiated disciplinary proceeding till date neither the suspension was reviewed by the respondent authority. Therefore in our considered view the continuation of the suspension is illegal and against the provisions of provision stipulated in</p>	

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