

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

The Hon'ble Justice Soumitra Pal (Chairman)
& The Hon'ble P. Ramesh Kumar (Administrative Member)

Case No. OA-60 OF 2017

SHRI PARESH CHANDRA BERA 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
<p style="text-align: center;"><u>16</u> 26.09.19</p>	<p>For the Applicant : Mr.M.N.Roy Advocate</p> <p>For the Respondent : Mr.S.Ghosh Advocate</p> <p>In this application, Paresh Chandra Bera, Assistant Director of Agriculture (Admn.), Contai, Purba Medinipur, promoted as Deputy Director of Agriculture (Sugarcane Development) Ahmedpur, has challenged the release order dated 29th August, 2016 issued by the Deputy Director of Agriculture (Admn.)Purba Medinipur, Tamruk, the Respondent no. 5 on the several grounds. After the matter was admitted, directions were issued to file reply and rejoinder. Reply and rejoinder have been filed. Mr.M.N.Roy, learned advocate submits that since the applicant is in no way connected with the charges sought to be levelled, the order releasing him along with liabilities is without basis and illegal. Since the Officer on Special Duty & Ex-Officio Director of Agriculture, West Bengal the respondent no. 4 by memo. dated 11th August, 2016 had directed the applicant to handover the charge of the Assistant</p>	

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	<p>Director of Agriculture, Contai, Purba Medinipur in terms of various rules and other relevant paragraphs of D.D.O's manual within 26th August, 2016 with stipulations, the conditional release order passed by the respondent no. 5 is illegal. Moreover as the respondent no. 5 is much junior in rank to the respondent no. 4, the impugned released order amounts to interference of the order issued by the respondent no. 4.</p> <p>Mr.S.Ghosh, learned advocate appearing on behalf of the respondents has referred to the order dated 11th August, 2016 passed in contempt proceedings being CCP-36 of 2015 arising out of OA-809 of 2014 filed by the applicant.</p> <p>Heard learned advocates for the parties. In order to appreciate the issue it is appropriate to set out the order contained in the memo. dated 11th August, 2016 issued by the Officer on Special Duty & Ex-Officio Director of Agriculture , West Bengal, the respondent no. 4 the relevant portion of which is as under:</p> <p style="text-align: center;"><i>"In pursuance of Agri. Department's No. 2383-Estab (Dte)/AG/O/1M-29/13 dated</i></p>	

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	<p>14.07.2016, Sri Paresh Chandra Bera, Assistant Director of Agriculture (Admn.), Contai, Purba Medinipur now as Deputy Director of Agriculture (Sugarcane Development), Ahmedpur, Birbhum is hereby permitted to draw the pay & allowances to his promotional post as Deputy Director of Agriculture (Sugarcane Development), Ahmedpur after necessary fixation of pay with effect from the date of joining the post.</p> <p>Accordingly, Sri Paresh Chandra Bera is hereby directed to hand over the entire charges of the Assistant Director of Agriculture (Admn.), Contai, Purba Medinipur in terms of rule 61 & 62 of W.B.F.R. Vol.I read with para 1.6 to 1.14 and other relevant paras of D.D.O'S manual within 26.08.2016 (A.N.); failing which Sri Bera is liable to be stand released from the post of Assistant Director of Agriculture (Admn.), Contai, Purba Medinipur for joining his new assignment as Deputy Director of Agriculture (Sugarcane Development), Ahmedpur,</p>	

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	<p style="text-align: center;"><i>Birbhum until further order”.</i></p> <p>Thereafter, the impugned order dated 29th August, 2016 was issued by the Deputy Director of Agriculture (Admn.) Purba Medinipur, Tamluk, the respondent no. 5, the relevant portion which is as under:</p> <p style="text-align: center;"><i>“As per director of OSD & E.O.D.A. West Bengal, vide No. 527(7) PSJ dt. 11.08.16 Sri Paresh Ch. Bera, Asstt. Director of Agriculture (Admn.), Kanthi & now posted as Deputy Director of Agriculture (Sugarcane Dev.) Ahmedpur could not made over the entire charges of Asstt. Director of Agriculture (Admn.), Kanthi to Sri Avijit Mandal, Present Asstt. Director of Agriculture (Admn.) Kanthi on 26.08.2016.</i></p> <p style="text-align: center;"><u><i>Therefore Sri Paresh Ch. Bera is hereby stand released from the post of Asstt. Director of Agriculture (Admn.), Kanthi alongwith all liabilities”.</i></u></p> <p style="text-align: center;">(Emphasis supplied)</p>	

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	<p>The order passed on 11th August, 2016 in the contempt proceeding being CCP-36 of 2015, is as under:</p> <p><i>“Even on second call Learned Advocate for the State Respondents does not appear when the matter is taken up by the Tribunal.</i></p> <p><i>Shri Paritosh Bhattacharyya, Director of Agriculture & Ex-Officio Secretary, Government of West Bengal is present before the Tribunal.</i></p> <p><i>A Memo No. 527(7)PSJ/Misc./03/2013 dated 11.08.2016 issued by the Officer on Special Duty & Ex-Officio Director of Agriculture, West Bengal has been placed before the Tribunal.</i></p> <p><i>After the same has been perused and Learned Counsel for the Applicant and Shri Paritosh Bhattacharyya, Director of Agriculture & Ex-Officio Secretary, Government of West Bengal have been heard,</i></p>	

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	<p><i>we feel nothing further remains in the Application and the same should be dropped.</i></p> <p><i>We appreciate the personal endeavour taken by Shri Paritosh Bhattacharyya, Director of Agriculture & Ex-Officio Secretary, Government of West Bengal in resolving the fiasco which has arisen in the context of the various Orders passed by the Tribunal vis-a-vis the issue of release of Shri Paresh Chandra Bera."</i></p> <p>On a query, it is submitted by Mr.Ghosh that the Officer on Special Duty & Ex-Officio Director of Agriculture (Admn.) is superior in rank to Deputy Director of Agriculture (Admn.). In fact there is no dispute regarding the status of the respondent no.4. Since we find that the Director of Agriculture, the respondent no. 4 has issued the relevant order directing release of the applicant on promotion, the Deputy Director of Agriculture (admn.) should not have interfered by issuing impugned order dated 29th August, 2016 by incorporating the words "alongwith all liabilities".</p>	

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BLR	<p>Therefore, the words "alongwith all liabilities" appearing in the impugned order dated 29th August, 2016 at page 39 of the application, is set aside and quashed. The application is allowed.</p> <p>(P. RAMESH KUMAR) MEMBER (A)</p> <p>(SOUMITRA PAL) CHAIRMAN</p>	