

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 - 1 of 2020

Siddhartha Sen & 3 Others –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>6</u> 24.02.2020</p>	<p><i>For the Applicants: Mr. M. N. Roy Advocate.</i></p> <p><i>For the Respondents : Mr. S. N. Ray, Advocate.</i></p> <p><i>Both the parties today have drawn our attention that in the order dated 11.02.2020 inadvertently there is some typographical mistake in the body of the order.</i></p> <p><i>Heard the parties and perused the order. Accordingly the order dated 11.02.2020 is modified/corrected as follows:-</i></p> <p><i>“The instant application has been filed challenging the suspension order dated 22.11.2018 whereby the applicants were placed under suspension with immediate effect under Clause (a) of Sub-rule 1 of Rule 7 of the West Bengal Services (Classification, Control and Appeal) Rules 1971. However, till date neither any charge sheet has been served upon them nor the said suspension order was reviewed or subsistence allowance has been enhanced. During the course of the hearing, the counsel for the applicants has drawn our attention to the judgement passed by the Hon'ble Apex Court in the case of Ajay Kumar Chowdhury –Vs- Union of India and Another reported in (2015) 7 SCC 291 and has prayed for extension for benefit of the said judgement by quashing the said order.</i></p>	

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	<p><i>The counsel for the respondents has submitted that till today no charge sheet has been issued to the applicants nor the suspension order has been reviewed or subsistence allowance has been enhanced.</i></p> <p><i>The Hon'ble Apex Court, while dealing with the issue of suspension, has held that the currency of suspension order should not extend beyond three months if within this period the memorandum of charges or charge sheet is not served upon the delinquent officer. In the instant case, admittedly the applicants were put suspension order vide order dated 22.11.2018 under Rule 7(1) (a) of the West Bengal Services (Classification, Control and Appeal) Rules 1971, which is as follows:</i></p> <p><i>"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 behalf may place a Government employee under suspension:</i></p> <p><i>(a) Where a disciplinary proceeding or departmental enquiry against him is contemplated or is pending; or</i></p> <p><i>(b) Where in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the</i></p>	

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	<p><i>security of the State; or</i></p> <p><i>(c) Where a case against him in respect of any criminal offence is under investigation or trial.</i></p> <p><i>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."</i></p> <p><i>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 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 and 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</i></p>	

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A.K.P.	<p><i>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 applicants, the respondents would be at liberty to take appropriate steps as per Rules.</i></p> <p><i>Respondents are directed to allow the applicants to resume their duty within two weeks from the date of receipt of the order.</i></p> <p><i>The O.A. is disposed of."</i></p> <p><i>Let this order be treated as a part of the order dated 11.02.2020.</i></p> <p>P. RAMESH KUMAR MEMBER (A)</p> <p>URMITA DATTA (SEN) MEMBER (J)</p>	