

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Dr. Subesh Kumar Das

Case No – **OA 1247 of 2016**

Krishna Pada Sarkar 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
09 12.03.2020	<p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the Respondent : Mr. G.P. Banerjee, Learned Advocate.</p> <p>The applicant has prayed for direction upon the respondents to grant allowance attached with police medal for gallantry with effect from the date of retirement of the applicant on April 30, 2004 and other consequential reliefs.</p> <p>The applicant was awarded police medal for gallantry w.e.f. May 20, 1976 while he was working as Sub-Inspector of Police, New Township Police Station in the district of Burdwan in West Bengal. The notification issued by the Secretariat of the President of India for grant of President's police medal and police medal for gallantry on March 1, 1951 being amended up to July 28, 2006 indicates that the applicant is entitled to get monetary</p>	

ORDER SHEET

Krishna Pada Sarkar

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. **OA 1247 OF 2016**

allowance of Rs.60/- p.m. w.e.f. May 20, 1976, which was increased from time to time up to Rs.2000/- p.m. in terms of order communicated under letter dated May 10, 2013 by the under Secretary to the Government of India, Ministry of Home Affairs. The applicant got monetary allowance every month while he was in service. He retired from service on April 30, 2004. The payment of monetary allowance was stopped with effect from his retirement from service.

Admittedly, one departmental enquiry was started against the applicant under Rule 10 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 (in short, WBS Disciplinary Proceeding Rules, 1971) on the allegation of acquiring assets disproportionate to the known source of income of the applicant. Ultimately, the Disciplinary Authority found the applicant guilty of the charge in the said enquiry and imposed punishment of 15% pension cut for a period of two years without affecting other allowances. The payment of allowance for police medal for gallantry was

ORDER SHEET

Krishna Pada Sarkar

Form No.

Vs.

The State of West Bengal & Ors.
.....

Case No. **OA 1247 OF 2016**

<p>stopped with effect from the date of retirement of the applicant due to imposition of punishment on the ground of acquiring assets disproportionate to his known source of income. The Deputy Inspector General of Police (Headquarters), West Bengal moved the Department of Home (Police), Government of West Bengal on August 25, 2005 seeking instruction as to whether payment of allowance attached to the police medal will be stopped after he was found guilty of misconduct in the departmental proceeding and after imposition of punishment on him by the Disciplinary Authority. The Special Secretary to the Government of West Bengal, Home (Police) Department had written letter to the Secretary to the Government of India, Ministry of Home Affairs on June 7, 2007 with regard to stoppage of allowance of the applicant for police medal for gallantry. It appears from the reply submitted by the State respondents that on January 3, 2017 under Secretary to the Government of India, Ministry of Home Affairs, Police Division-I had written to the Joint Secretary to the Government of West Bengal,</p>	
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ORDER SHEET

Krishna Pada Sarkar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1247 OF 2016**

Department of Home (Police), Police Service Cell that under Rule 8 of Police Medal Rules modified by notification dated February 9/16, 2010 the medal is liable to be forfeited when the holder of the medal is found to be guilty of disloyalty, cowardice, inaction or such other conduct which in the opinion of the President of India brings the force into disrepute. By the said letter dated January 3, 2017, the Ministry of Home Affairs, Government of India wanted the State Government of West Bengal to examine the case of the applicant in terms of the guidelines which are in force and send the proposal for withdrawal of gallantry award given to the applicant in the year 1976. We are in the dark whether the Department of Home (Police), Government of West Bengal has already examined the case of the applicant and forwarded the recommendation for withdrawal of gallantry award of the applicant.

Having heard Learned Counsel representing both parties and on consideration of the materials on record, we find that the disciplinary authority imposed punishment of 15% pension cut on the applicant for a period of two years after retirement from

ORDER SHEET

Krishna Pada Sarkar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1247 OF 2016**

service after finding him guilty of misconduct by acquiring property disproportionate to his known source of income. Nothing is on record to indicate that the order of punishment imposed by the disciplinary authority was challenged by the applicant before any court of law and thereby the said order of imposition of punishment has attained finality and the same is binding on the applicant. On consideration of Annexure-III appended to the guidelines issued by the Joint Secretary to the Government of India, Ministry of Home Affairs, Police Division-I on February 9/16, 2010, we find that the police medal for gallantry can be withdrawn/annulled/forfeited under the following three circumstances :

- (i) If the awardee is convicted by any court of law for an act or conduct involving moral turpitude which brings the police force into disrepute,
- (ii) If the awardee is dismissed from service for such an act or conduct which brings the police force into disrepute,
- (iii) Any other act or conduct of the awardee which is specifically not covered under (i) and (ii), nevertheless attracts the provisions of Rule 8 of Police Medal Rules on the ground of disloyalty, cowardice, inaction or such action as in the opinion of President brings the force into disrepute.

The police medal for gallantry awarded to the applicant can be forfeited or withdrawn or annulled after obtaining approval of the competent authority by following the procedure

ORDER SHEET

Krishna Pada Sarkar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1247 OF 2016**

laid down in the guidelines by Ministry of Home Affairs, Government of India. On consideration of the facts of the present case, we are of the view that this is a fit case where police medal for gallantry awarded to the applicant may be forfeited with effect from the date when punishment was imposed on him by the Disciplinary Authority on the ground of acquiring property disproportionate to his known source of income, but the procedure laid down in the guidelines must be followed for forfeiture of the award. Nothing is on record to indicate that the police medal for gallantry awarded in favour of the applicant was forfeited till date by following the procedure laid down in the guidelines.

Under the above circumstances, we direct the respondent no. 2, Additional Chief Secretary to the Government of West Bengal, Department of Home (Police) to forward the views of the State Government in connection with withdrawal of police medal for gallantry awarded in favour of the applicant to the Ministry of Home Affairs, Government of India, Police Division-I in response to the letter dated January 3, 2017 issued by the under Secretary to the Government of India, Ministry of Home Affairs, Police Division-I within a period of 8 (eight) weeks from the date of communication of the order, if the views of the State Government have not been forwarded in the mean time. The respondent no. 5, the Secretary to the Government of India, Ministry of Home Affairs is directed to consider the views of the

ORDER SHEET

Krishna Pada Sarkar

Form No.

.....

Vs.

The State of West Bengal & Ors.

.....

Case No. **OA 1247 OF 2016**

State Government and obtain the decision of the competent authority as to whether the applicant will continue to draw monetary allowance attached to the police medal for gallantry or the said award will be forfeited with effect from the date of imposition of punishment on the applicant on June 8, 2005 within a period of 12 (twelve) weeks from the date of receiving the views of the State Government in this regard and communicate the same to the State Government within a period of 4 (four) weeks thereafter.

With the above direction, the original application is **disposed of.**

Let a plain copy of this order be supplied to both parties.

**S. K. DAS
MEMBER(A)**

**R. K. BAG
MEMBER(J)**

Rajib