

**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-1260 of 2016.**Binod Kumar Jha 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;">11</p> <p>-----</p> <p>15-01-2020</p>	<p>For the Applicant : Mrs. Pampa Dey (Dhabal), Advocate.</p> <p>For the State Respondents : Mrs. S. Agarwal, Advocate.</p> <p>The instant application has been filed challenging the impugned final order dated 17-10-2016 whereby the applicant was dismissed from service for unauthorised absence. As per the applicant, the respondent had not considered his medical documents though he had submitted those documents before the authority. Therefore on this ground the applicant has prayed for impugned order should be quashed.</p> <p>The Counsel for the respondent has raised the preliminary objection with regard to the maintainability of the application as the applicant has not availed alternative remedy by way of filing an appeal before the Appellate</p>	

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	<p>Authority. She has further submitted that the disciplinary authority had clearly stated in the impugned order that even after granting an opportunity to the applicant, he failed to submit required up-to-date medical certificate.</p> <p>Therefore the respondents have rightly rejected the prayer of the applicant and have imposed the punishment. However in contovverting that, the Counsel for the applicant has drawn out attention to the letter dated 10-07-2015 (Annexure-G) and dated 15-11-2016 and has submitted that through this letter, he has already submitted the medical certificate which was not considered by the disciplinary authority by passing the final order.</p> <p>We have heard both the parties and perused the records. It is noted that the disciplinary authority had passed his order dated 17-10-2016, wherein it has been observed: -</p> <p><b>“I have carefully gone through the papers of</b></p>	

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	<p><b>the proceeding files. But, the reply as well as the documents produced by the C.O./relatives of the C.O. are not enough to justified his long time absence from duty. It is also evident from the record that C.O. always refused to receive the lawful order of the department. After the lapse of a considerable period neither C.O. nor his family members are agrees to produce the updated medical papers in respect of his prolong treatment. C.O. was provided ample of scope to submit his update medical papers for his treatment but C.O./family members are reluctant in this issue. E.O. forward every steps with due care and caution during proceeding enquiry and followed he principal of natural justice by providing ample scope to C.O.”</b></p> <p>It is also noted that the only ground of challenging the impugned order, the disciplinary authority did not consider the medical certificate placed by the applicant as per the direction of the authority dated 09-06-</p>	

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	<p>2016 (Annexure-C). However from the above mentioned 2(two) letters dated 15-11-2016 as well as 10-07-2015, it is noted that in the letter dated 15<sup>th</sup> November 2016, the applicant has claimed that his treatment is still going on though no such documents enclosed with the said letter. Moreover the said letter dated 15-11-2016 is after the date of passing of the final order of the disciplinary authority. Even the letter dated 10-07-2015 has not mentioned or enclosed any medical documents or reports. Therefore the observation of the disciplinary authority that even after granting opportunity to the applicant, he did not submitted any medical report or documents before the authority is seems to be right and accordingly we do not find any reason to interfere with the decision of the disciplinary authority even the applicant has not approached the authority by way of filing any appeal.</p>	

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Mihir	<p>In view of the above, the OA is dismissed being devoid of any merit with no order as to cost.</p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER(J)</b></p>	