

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Soumitra Pal****&****The Hon'ble P. Ramesh Kumar.****Case No –OA-179 of 2017.****Rabindra Nath Biswas. –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>9</u> 19.12.2018</p>	<p>For the Applicant : Mr. Nirmalendu Ganguly, Advocate.</p> <p>For the Respondents : Mr. Goutam Pathak Banerjee, Advocate.</p> <p>In this application the applicant, who was an Inspecting Officer in the Commerce and Industries Department and Director of Mines and Mineral, Government of West Bengal and who had superannuated on 30th June, 2014, has challenged the order dated 30th September, 2011 whereby his claim for travelling allowance was partially allowed. It appears that earlier the applicant had moved the Tribunal by filing an application being O.A.-197 of 2010 (Rabindra Nath Biswas-Vs-State of W. B. & Ors.) which was disposed of by order dated 15th June, 2011, by directing inter alia, as under :</p> <p style="text-align: center;"><i>“.....Thus, on hearing the Ld. Adv. Of both the sides, we like to dispose of this application by granting liberty to the petitioner to refer his claim to the Secretary of dept. of Commerce & Industries, Govt. of W. B. for fresh examination after ignoring the previous</i></p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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><i>view taken by the Director, and, the Secretary shall give his opinion independently after ascertaining fact as well as the rule and if required by giving a personal hearing to the petitioner. We make it clear that for official discipline, the decision of the Secretary shall be binding if the same is supported with logic and reason.</i></p> <p><i>The Secretary shall dispose of this matter within a period of 4 months from communication of this order with intimation to the petitioner."</i></p> <p>We find that pursuant to the order dated 15th June, 2011 the authorities had passed the order under challenge. It is submitted by Mr. Nirmalendu Ganguly, learned advocate for the applicant that such rejection of the claim is illegal it was submitted in accordance with law. On a query no answer was forthcoming regarding the factual finding about the applicant working only 44 days out of 140 working days in the year 2006 and his presence on 6 days out of 21 working days in November, 2007.</p> <p>Mr. Goutam Pathak Banerjee, learned advocate</p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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>for the respondents submits that as the cause of action arose in the year 2011 and as the application was filed in the year 2017, it is hit by Section 21 of the Administrative Tribunal's Act, 1985.</p> <p>Heard learned advocates for the parties. We find that the Additional Chief Secretary, Commerce & Industries Department, Government of West Bengal after examining the records had passed the order, the relevant portion of which is as under :</p> <p><i>"..... Now, shri R.N. Biswas as M.O was in charge of all mining related matters in the Districts of Purulia, Bankura & Siliguri at the relevant point of time which includes processing of lease application, inspection of mines, assessment of royalty for the M.L holders. So it is expected that M.O should remain at his office or within his jurisdiction for most of the working days in a month. Occasionally, M.O is required to visit Kolkata to attend hearing meeting at the Deptt. or for any meeting/urgent work at D.M.M.'s office. Apart from this, if no other experienced officer is available, he may have to come to Kolkata for court case. He is</i></p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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><i>also required to undertake inspection of mines within his jurisdiction. Factually, it may not always be possible for an officer posted in district to obtain written permission from controlling officer at Kolkata for each & every tour, and in most of the cases such question will not arise if the officer can produce sufficient/justified ground for the tour. In the present case, shri R.N. Biswas had been able to produce certain documents which show that he was asked by the Deptt. to attend some hearing at Kolkata, or to some court cases justifying his tours to some extent. But it is also a fact that an officer can not undertake tour as routine matter without seeking approval of higher authority, especially when he has been asked not do such things from 1998 to 2008 by successive D.M.Ms. I am referring here to Memo No. 2077 M.D. 18.9.98, 2098 MD 23.9.98, 3698 MD 27.11.06, 682 MD dated 22.6.06, 1219 M.D. dated 19.9.06, 167 M.D, 28.11.2006, 333 MD dated 7.6.07, 850 M.D, 19.6.2007, 357 M.D. dt.</i></p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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><i>20.3.2007 as on record. It also appears from memo no. 333 M.D. date 9.3.2007 that in 2006 from April'06 to Dec 2006, out of 140 working days, he was present at HQ only for 44 days. In November 2007 he was present for 6 days out of 21 working days, there were other such instances. Records also show that he routinely claim Taxi fare from Howrah Station to his residence at Behala.</i></p> <p><i>All these activities only points to his disobedience, disregard to the advice of his controlling officer and his habit of undertaking tours of his own will, neglecting his own work.</i></p> <p><i>Considering all the facts, as on record I think the matter can be resolved as follows:</i></p> <p><i>Inspection tours within his jurisdiction are approved. Tours in Kolkata in connection with High Court matters supported by documentary evidence are approved.</i></p> <p><i>Tours to Kolkata to C & I dept or to</i></p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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><i>the office of D.M.M. supported by documents are approved.</i></p> <p><i>Taxi fare from Howrah Station to his residence at Behala, are not approved, but Taxi fares from Howrah Station directly to offices are approved.</i></p> <p><i>All T.A. claims for which there is no sufficient justification are not allowed. His tours to Kolkata tagging Saturday/Sunday, whenever he has been asked to visit Kolkata office on Friday or Monday be allowed. But no halting charge for holidays will be claimed. Regarding his adjustment bill dt. 6.9.2006 D.M.M. will take necessary action in terms of existing rules and order....."</i></p> <p>We find that the factual findings such as the applicant had worked for only 44 days out of 140 working days on April, 2006 to December, 2006 and only 6 days out of 21 working days in November, 2007 have gone unchallenged. Moreover, the applicant has not challenged the various memos which were issued to the applicant regarding undertaking tour without approval. We find there is no mistake in the decision making process. The claim of the applicant has been</p>	

ORDER SHEET**Rabindra Nath Biswas.**

Form No.

Vs.**The State of West Bengal & Ors.**Case No. OA-179 of 2017.

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
<i>Sourav.</i>	<p>partially allowed. Therefore, the impugned order need not be interfered with. The application is dismissed.</p> <p>(P. RAMESH KUMAR) (SOUMITRA PAL) MEMBER (A) CHAIRMAN</p>	