ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member (J),
The Hon'ble Sayeed Ahmed Baba, Member (A)

Case No. MA – 42 of 2021 (OA – 578 of 2017)
Sampad Ranjan Mahapatra - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order		
5 02.03.2022	For the Applicant	: Mr. G.P. Banerjee, Advocate.
	For the Respondents	: Mrs. S. Agarwal, Advocate
	For Pvt. Respondents	: Mr. S. Ghosh, Advocate

Today the instant M.A. 42 of 2021 arising out of O.A. No. 578 of 2017 has been listed for delivery of judgement in a supplementary list. With regard to M.A. 42 of 2021, judgement has been pronounced and delivered in open court in separate sheets with a difference of opinion. Let the judgement dated 02.03.2022 be kept on record.

However, as the Member (J) was not served with the advanced copy of disagreement note of the Member (A), therefore, no point of reference could be made along with the judgement as pronounced today. Therefore, following points of reference is as follows;

(1) Whether the judgement dated 06.03.2020 is valid or not when the signature of both the members is available in the judgement and in file?

(2) When the O.A. No. 578 of 2017 was listed as item No. 1 of the supplementary list dated 06.03.2020 along with the another M.A. No. 76 of 2019 arising out of CCP – 9 of 2019 against serial No. 2 and both the judgements were pronounced and signed in open court by both the Members in the presence of both the parties and the said judgement of M.A. 76 of 2019 was uploaded on 17.03.2020.

In the above scenario, whether it can be held that no supplementary list was published?

(3) When the applicant as well as State Respondents did not challenge the validity of the judgement dated 06.03.2020, rather R.A. 3 of 2020 and M.A. 44 of 2021 have been filed to review the judgement dated 06.03.2020, whether by filing an M.A. by private respondent No. 3 for declaring the judgement invalid is proper under law?

(4) Whether M.A. 44 of 2021 arising out of R.A. 3 of 2020 as well as CCP 14 of 2020 can be disposed of by way of judgement passed in M.A. 42 of 2020 when the aforesaid three applications were never heard by the Bench?

In view of the above, Registry is directed to place the file before the Hon'ble Chairman to make reference to the appropriate Bench to determine the points of references as per the provisions of The Administrative Tribunal Act, 1985.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

A.K.P.

SAYEED AHMED BABA
MEMBER(A)

URMITA DATTA (SEN)
MEMBER (J)

M.A No.

Case No. **MA-42 of 2021 (OA-578 of 2017).**

Sampad Ranjan Mahapatra.

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I have gone through the order prepared by the Judicial Member.

On careful scrutiny of the record and the order indicated above, I respectfully disagree with the points of reference under serial Nos. (1) and (2) on the ground, I do not find anywhere in the record that both the members signed the finally pronounced judgment dated 06.03.2020 passed in OA-578 of 2017.

I also do not peruse any supplementary cause list dated 06.03.2020 as stated under serial No. (2). I cannot look beyond the present record as regards the reference to MA-76 of 2019 arising out of CCP-9 of 2019 being an item of the alleged supplementary list dated 06.03.2020.

In view of the aforesaid factual aspect, the incidents stated under serial Nos. (1) and (2) are contrary to the record of the case.

Accordingly without looking into the facts as stated under serial Nos. (1) and (2), the reference can be made to the effect

"As to whether any supplementary cause list was published on 06.03.2020 or not containing the case being OA-578 of 2017 for delivery of judgment ?"

The point Nos. 3 and 4 relate to the effect of the dissent view of the Administrative Member of the 2nd Bench, West Bengal Administrative Tribunal in deciding MA-42 of 2021 arising out of OA-578 of 2017 passed on 02.03.2022. So, the said points of references do not have any nexus with the disagreement, and or, subject matter of difference of opinion. Resultantly, the point Nos. 3 and 4 cannot be considered to be valid references considering the difference of opinion in respect of the judgment passed on 02.03.2022 in MA-42 of 2021 (OA-578 of 2017).

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The judgment delivered on 02.03.2022 has not been uploaded and the same is to be uploaded on the official website of the Tribunal as expeditiously as possible.

The case records of MA-42 of 2021 and OA-578 of 2017 be placed before the Hon'ble Chairman for appropriate order in deciding the point of reference as stated above.

This order be also uploaded on the official website of the Tribunal.

(SAYEED AHMED BABA)
MEMBER(A)