

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

**Case No. – OA 358 of 2020**

Debabrata Singha - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>05</u> 21.04.2021	For the Applicant  For the State Respondent	: Mr. A.K. Niyogi, Ld. Advocate. : Mr. S. Ghosh, Ld. Advocate.
---	---	---

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020, issued in exercise of the powers conferred under sub section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The counsel for the applicant has submitted that he has approached this Tribunal by challenging the action of the respondents whereby the respondents without reinstating the applicant had issued charge-sheet as per the leave granted by the Hon'ble High Court, Calcutta in W.P.S.T. No. 123 of 2019. As per the applicant, he had earlier approached this Tribunal and this Tribunal vide order dated 30.08.2018 passed in OA-361 of 2015 whereby the applicant was directed to be reinstated after quashing the impugned order of termination. Against the said order, the respondent had approached the Hon'ble High Court, Calcutta in W.P.S.T. No. 123 of 2019 in which case the Hon'ble High Court, Calcutta after affirming the order of this Tribunal had granted opportunity to the respondents that they may issue charge-sheet within a fortnight from the date of the order which is depicted from para 24 to 26 of the order of the Hon'ble High Court, Calcutta, which is as follows :

**“24. While upholding the order of the tribunal setting aside the order dated 27<sup>th</sup> June, 2014, we direct/observe as follows :**

**i)If so advised, the relevant disciplinary authority of the original applicant may issue charge-sheet to him for any misconduct/misdemeanour on his part, within a fortnight from date;**

Form No.

Case No. **OA-358/2020**

\_\_\_\_\_  
**Vs.**

**THE STATE OF WEST BENGAL & ORS.**  
\_\_\_\_\_

**ii)the original applicant shall have a week's time to deny the charges;**

**iii)if the original applicant denies the charge, an inquiry officer shall be appointed to inquire into the charges levelled against the original applicant;**

**iv)the inquiry on charge(s) not admitted shall be conducted strictly in accordance with the provisions of Rule 10 of the CCA Rules;**

**v)the original applicant shall cooperate with the inquiry officer and shall not seek any unnecessary adjournment;**

**vi)if an adjournment is at all considered necessary, the same shall not be granted in excess of two days and it shall be granted only once;**

**vii)having regard to the time-line we propose to impose, it would be preferable to have the inquiry conducted on day to day basis;**

**viii)the inquiry, if initiated, shall be completed by 30<sup>th</sup> April, 2020;**

**ix)if the report of inquiry is adverse to the interest of the original applicant, the same shall be furnished to him by the disciplinary authority for inviting comments thereon;**

**x)the original applicant shall have a fortnight's time from receipt of the inquiry report to give his comments there against; and**

**xi)within a further period of a fortnight thereafter, the disciplinary authority shall proceed to take an appropriate final decision on such representation bearing in mind the evidence that is collected in course of inquiry and thereby terminate the**

Form No.

Case No. **OA-358/2020**

---

**Vs.**

**THE STATE OF WEST BENGAL & ORS.**

---

**proceedings.**

**Since the provisions relating to second show-cause notice which were earlier available in Article 311 of the Constitution have been done away with, but such procedure still exists in the CCA Rules, we have consciously not directed compliance with such procedure in view of the decision in Managing Director, ECIL, Hyderabad v. B. Karunakar : AIR 1994 SC 1074.**

**25. It is made abundantly clear that should the charge-sheet be not issued to the original applicant within a fortnight from date and/or the inquiry is not completed by 30<sup>th</sup> April, 2020, it shall be deemed that the petitioners before us are no longer interested in proceeding against the original applicant and in such a case, the proceedings shall be deemed to have lapsed with the result that the order of the tribunal regarding consequential benefits shall become operative.**

**26. The writ petition stands disposed of on the above terms. There shall be no order as to costs.”**

However, as per the counsel for the applicant this Tribunal had already directed to reinstate the applicant. Even against any terminated employee, no charge-sheet can be issued. Therefore, the respondent has to reinstate the applicant first then they may issue charge-sheet.

The counsel for the respondent, however, has prayed for six weeks time to file reply. The counsel the applicant, however, has submitted that since the law point to be decided only the matter may be finally heard by the next date.

Heard the parties and perused the records. It is noted that the Hon'ble High Court, Calcutta had upheld the order of this Tribunal. However, they had issued certain instructions and granted opportunity to the respondents to issue

**ORDER SHEET**

Debabrata Singha

Form No.

Case No. **OA-358/2020**

\_\_\_\_\_  
**Vs.**

**THE STATE OF WEST BENGAL & ORS.**  
\_\_\_\_\_

charge-sheet under the observation made in the para 24 to 26 of the Hon'ble High Court's order.

In view of the above, only the law point has to be decided whether in case of dismissed employee without reinstatement, charge-sheet can be issued against him or not. Therefore, the respondents are granted six weeks' time to file reply and rejoinder, if any, by two weeks thereafter.

Let the matter be listed for "**Final Hearing**" on **16.06.2021**.

Mrs. URMITA DATTA (SEN)  
MEMBER (J)

SS/CSM