

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 151 of 2022

*Dr. Manotosh Sutradhar* -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. M. Ganguly, Mr. C. Sarkar, Learned Advocates.
<u>02</u> 25.04.2022	For the State Respondent	: Mr. G.P. Banerjee, Learned Advocate.
	For the Pvt. Respondent No. 7	: Mrs. S. Roy, Mr. S. Seal, Learned Advocates.
	For the Respondent No.8	: Mr. K. Das, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11<sup>th</sup> February, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The Vakalatnamas filed on behalf of the respondent nos. 7 and 8 are kept on record.

The counsel for the applicant has fairly submitted that there are some defects in the cause title. Therefore, he has prayed for leave to rectify the same.

Prayer is allowed.

The applicant is directed to make appropriate correction in the copies of all the respondents.

The counsels for the respondents have raised preliminary objection on the point of maintainability of the instant application on the ground that the applicant had earlier challenged the order rejecting the statutory appeal filed by the applicant before the higher authority, challenging the preliminary enquiry report/recommendation of the ICC. However, this Tribunal had rejected the prayer of the applicant on the ground that under Section 18 of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 against the preliminary enquiry report of

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ICC, no statutory appeal can be filed before the higher authority.

Being aggrieved with, he had preferred one WPST No. 105 of 2021, but no stay was granted and is still pending before the Hon'ble High Court at Calcutta. However, he has again filed one application being CAN No. 01 of 2022 arising out of WPST No. 105 of 2021 for staying the departmental proceeding. The Hon'ble High Court, Calcutta has observed inter-alia in their order dated 04.03.2022 :

**“Curiously enough, the writ petitioner did not challenge the recommendation of the ICC on an understanding that State Administrative Tribunal is not the appropriate authority to consider any challenge to such recommendation as an appellate authority. Even nothing prevented the writ petitioner after 25<sup>th</sup> November, 2021 to approach before the Tribunal to challenge the ICC recommendation instead of wasting time by filing a writ petition in this court challenging the decision of the Tribunal. A prudent man suffering the consequence of ICC recommendation would have immediately accepted the said order or could be amended the original application with a prayer also for setting aside the recommendation of the ICC. The regular bench of this court on 11<sup>th</sup> January, 2022 declined to pass any interim order, although it has not been specifically stated in the said order.**

**We make this observation that charge sheet was filed on 9<sup>th</sup> July, 2021 and the writ petitioner was aware that the dyes cast bolt impeding. However, the coordinate bench did not grant any stay of the disciplinary proceeding neither the disciplinary proceeding has commenced during the pendency of the writ petition, this bench (not being the regular bench) cannot revisit the issue, once the interim order deemed to have been rejected by the regular bench.**

**This order shall not prevent the writ petitioner to take appropriate steps against the recommendation of the ICC in accordance with law.**

**We are also of the view that the recommendation of the ICC is only a piece of evidence and is not conclusive.**

**In the event, the disciplinary authorities desire to proceed with the disciplinary proceeding notwithstanding the pendency of the writ**

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**petition it shall be strictly without prejudice to the right and contentions of the writ petitioner.**

**On such consideration, the application being CAN 1 of 2022 stands disposed of without any order as to costs."**

In view of the above, the applicant cannot approach both the forum when the writ petition is still pending before the Hon'ble High Court, Calcutta.

However, the counsel for the applicant has prayed for one accommodation to take appropriate instruction from his client.

Let the matter be adjourned to **06.05.2022** under the heading "Admission Hearing."

**URMITA DATTA (SEN)  
MEMBER (J)**

CSM/SS