

# WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)

Case No. – OA 173 of 2023

**Tanmoy Choudhury -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mr. M.N. Roy,  
Ld. Advocate.

For the State Respondents : Mr. S.K. Mondal,  
Ld. Advocate.

09  
14.05.2025

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

By filing this application, the applicant has prayed for setting aside the findings of the Enquiry Report as well the final order passed vide no. 1983 dated 23.06.2021 and appellate order vide no. 206 dated 06.02.2023. It is the contention of the applicant's side that the Disciplinary Authority failed to serve him as the charged officer a copy of the Enquiry Report.

Mr. Roy, learned counsel for the applicant relies on a judgment in (1993) 4 SCC 727 (Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others). The relevant part of the judgment is cited below :

*"2. (i) Whether the report should be furnished to the employee even when the statutory rules laying down the procedure for holding the disciplinary inquiry are silent on the subject or are against it ?*

*(ii) Whether the report of the enquiry officer is required to be furnished to the delinquent employee even when the punishment imposed is other than the major punishment of dismissal, removal or reduction in rank ?*

*(iii) Whether the obligation to furnish the report is only when the employee asks for the same or whether it exists even otherwise ?*

*(vi) From what date the law requiring furnishing of the report, should come into operation ?"*

Mr. Roy submits that the disciplinary proceeding being a quasi-judicial process, serving copy of the enquiry is obligatory on

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the part of the Disciplinary Authority. Having failed to serve such a copy, the entire disciplinary proceedings have been illegally concluded. Attention is also drawn to para 5 of the reply filed by the State respondents. A close reading of this paragraph gives the impression that such an enquiry report was not served upon the charged officer. However, relying on Rule 11 of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 serving copy of the enquiry report is not felt mandatory by the authority.

Having heard the submissions of the learned counsels and after examination of the records, it has become apparent to the Tribunal that during the proceedings, a copy of the enquiry report was not served upon the charged officer, this applicant. Although the Service Rules does not show that such serving a copy of the enquiry report is mandatory on the part of the Disciplinary Authority, but the Tribunal feels that, a proceeding being quasi-judicial in nature, a copy should have been served upon the charged officer. By not serving such a copy, it can be assumed that an opportunity to the charged officer was not given. The entire disciplinary proceedings are not only to be conducted in a fair and impartial manner, but sufficient opportunity has to be provided to the charged officer to respond to the charges. The judgment as cited above in “Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others” also makes it clear that the Disciplinary Authority had to give a copy of the enquiry report.

Having observed the above points, the Tribunal is of the view that the final order passed vide no. 1983 dated 23.06.2021 and also the appellate order vide no. 206 dated 06.02.2023 are non-est in the eyes of law and not tenable and quashable. Therefore, it is quashed and set aside. The Tribunal directs the respondent no. 3, the Director of Agricultural Marketing, Directorate of Agricultural Marketing to serve copy of the enquiry report to the applicant being the charged officer and conclude the disciplinary proceedings

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thereafter. If enquiry report is served to the charged officer, the applicant wishes to reply by way of representation, such representation be filed before the Disciplinary Authority within four (04) weeks from the date of communication of the enquiry report. Once such representation has been filed, the Disciplinary Authority shall examine the same and proceed further in accordance with the law.

Accordingly, this application is **disposed of**.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

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