

ORDER SHEET

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 307 of 2022

Gitesh Das Mahapatra -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant

: Mr. M.N. Roy,
Mr. G. Halder,
Ld. Advocates.

14
14.01.2025

For the State Respondents

: Mrs. Chaitali Bhattacharya,
Ld. Advocate.
Ms. R. Sarkar,
Mr. S. Debray,
Mr. R. Bag,
Mrs. A. Bhattacharya,
Ld. Depttl. Reps.

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 23rd November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

Appearing on behalf of the State respondents, Mrs. Bhattacharya, learned counsel has submitted the following:

(i) It is not correct to say that by the charge-sheet dated 30.11.2021 is invalid due to *res-judicata*. The respondents side had admitted before this Tribunal that, inadvertently the draft charge-sheet was issued to him but no leave of the Tribunal was sought by the respondent side for issuing the charge-sheet, nor such leave was required under the law.

(ii) Mrs. Bhattacharya reads out the relevant part of the order of this Tribunal dated 31.03.2022 in OA 282 of 2017. Her submission is that as clear from the recordings in the order, the main subject matter was the draft charge-sheet which the Tribunal in its finding had clearly comprehended the core issue was the draft charge-sheet which reached its finality and was not challenged by the applicant's side. (iii) Attention has been drawn to para 6.10, 6.11, 6.12, and 6.14 of the application (page 14 of the Supplementary) filed by the applicant. Submission of Mrs. Bhattacharya is that the applicant himself has in his application and in his own words has admitted that the charges were draft in nature and he also prayed for issuing a charge-sheet, not a draft charge-sheet. (iv) Mrs. Bhattacharya refers to the definition of *res-judicata* in section 11 of Civil Procedure Court and argues that the Tribunal while hearing the matter in OA 282 of 2017 did

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not go into the merits of the charge-sheet. The main issue was whether the charge-sheets being titled as draft was a proper and valid charge-sheet or not. The Tribunal had not made any comments on the merit of the draft charge-sheet. Therefore, the argument of the applicant's side that once the draft charge-sheet has been filed and later withdrawn, a new set of charge-sheets, with similar charges does not become *res-judicata* in terms of section 11 of Civil Procedure Court.

Mr. Roy, learned counsel for the applicant has made it clear that the applicant is challenging the charge-sheet only on the ground of issuing a fresh round of charge-sheets after the draft charge-sheet was withdrawn.

Concluding her submissions, Mrs. Bhattacharya has filed copies of following Judgments:- (i) "Anand Narain Shukla v. State of Madhya Pradesh reported in (1980) 1 Supreme Court Cases 252", (ii) "Union of India and Others v. Mohd. Ibrahim reported in (2004) 10 Supreme Court Cases 87" (iii) "State of Punjab and Others v. Chander Mohan reported in (2005) 13 Supreme Court Cases 81".

Let the matter appear under the heading "**Further Hearing**" on **20.02.2025**.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS