

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 397 of 2022**

*Amal Krishna Roy* -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. S. Banerjee, Mr. N. Pal, Learned Advocates.
<u>03</u> 11.07.2022	For the State Respondent	: Mr. A. De, Mr. S. Debroy, Departmental Representatives.

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 instant application has been filed challenging the disciplinary proceedings including the Charge-Sheet. It has been submitted by the learned counsel for the applicant that though in the earlier occasion, the applicant came before this Tribunal challenging the 2<sup>nd</sup> Show Cause Notice on the ground that without supplying the relied upon documents, the Enquiry Authority proceeded with the enquiry and issued 2<sup>nd</sup> Show Cause Notice thereof, which was finally disposed of vide order dated 15.02.2022 passed in MA-01 of 2022, MA-02 of 2022, MA-07 of 2022 (OA-670 of 2019). According to the applicant in the said order, the Court had directed the respondent authority to proceed from the de novo enquiry stage and complete the disciplinary proceedings within six months time after supplying the relied upon documents. However, as per the applicant, the respondent had initiated enquiry with a further Memorandum dated 02.03.2022 by cancelling the earlier Memorandum of Charge-Sheet dated 17.03.2017 on the self-same charges. Even he was not supplied with the new Memorandum dated 02.03.2022 before starting of the enquiry and when the applicant had approached the Disciplinary Authority vide representation dated 01.06.2022, he was supplied with the said Memo on 09.06.2022. It has been further submitted that even on the perusal of the daily order sheet of the Enquiry Officer dated 21.04.2022, it would be evident that next date of hearing was fixed on 06.05.2022, whereas on 29.04.2022, the Enquiry Officer had asked the applicant to again submit the Statement of Defence and asked the Presenting Officer to supply further documents without

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the knowledge or any intimation to the applicant as he has been informed by this again vide communication dated 29.04.2022. Therefore, the counsel for the applicant has prayed for interim protection for stay of operation of the enquiry proceedings in the interim.

Admit.

The Departmental Representative has submitted that as per observation of the Hon'ble Apex Court in the case of Chairman-cum-Managing Director, Coal India Limited and Others v. Ananta Saha and Others reported in (2011) 5 SCC 142 para 28 and they have issued fresh Charge-Sheet on self-same charges and witnesses after cancelling the earlier. However, they want to file reply to the application and has opposed prayer of interim protection.

Heard the parties. Since balance of convenience in favour of the applicant, the respondents are directed to file reply by four weeks and rejoinder, if any, by two weeks thereafter and the interim, the respondents are directed not to proceed with the disciplinary proceedings / enquiry till the next date.

Let the matter be listed under the heading "**Hearing**" on **24.08.2022**.

SS

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