

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. OA – 416 of 2022

Amiya Krishna Kar - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. M.N. Roy,
and Advocate

Date of order

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10.08.2022

For the State Respondents : Mr. D. Koley,
Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 354 – WBAT / 2J-15/2016 dated 18th May, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

The counsel for the applicant has prayed for leave to make correction of inadvertent typographical mistake in the prayer portion. Prayer is allowed.

The instant application has been filed praying for following relief(s):

“ (a) An order do issue thereby setting aside / quashing the Memorandum No. 1155-SC/Apt/4A/32P/2012 (Pt-I) Dated, Kolkata 20th October, 2016 and second show cause notice vide Memo No. 577 SC/Apt/4A-32P-2012 (Pt-I) dated 04.05.2017 imposing proposed punishment under Rule 8(iv) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 by the respondent no. 2 herein with immediate effect.

(b) An order do issue thereby setting aside / quashing the second show cause notice vide Memo No. 577 SC/Apt/4A-32P-2012 (Pt-I) dated 04.05.2017 imposing proposed punishment under Rule 8(iv) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971 upon

your applicant by the respondent no. 2 herein with immediate effect.

(c) Any other appropriate order / orders direction / directions as this Hon'ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.

(d) An order do issue directing the respondent authorities to transmit all the records pertaining to the instant case so that conscionable justice can be done.”

However, during the course of the hearing, the counsel for the applicant has submitted that vide Memo dated 20.10.2016, the applicant was charge sheeted for disproportionate of assets. However, as the entire list of documents were supplied to him, he made an application before the disciplinary authority for supplying in the relied upon documents. However, surprisingly on 04.05.2017, he was served with a Second Show Cause Notice proposing for punishment under Rule 8(iv) of West Bengal Services (Classification, Control and Appeal), 1971, wherein it has been recorded that the enquiry authority was appointed vide order dated 29.09.2015 and he had admitted the findings on 29.09.2016. However, on the contrary, admittedly the Charge Sheet was issued on 20.10.2016. Even vide another order dated 11.10.2017, the enquiry authority asked the disciplinary authority to supply the required documents as asked by the applicant. Therefore, it is clear that the enquiry still pending for want of documents, whereas in the Second Show Cause Notice, it has been specifically stated that enquiry officer was appointed vide order dated 29.09.2015 and he has submitted his report on 20.10.2016 i.e. both the dates are prior to the date of issuance of the Charge Sheet. Therefore, he has prayed for stay of operation of the Second Show Cause Notice and directs the enquiry authority not to proceed

ORDER SHEET

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further with disciplinary proceedings till the supply of the entire documents.

The counsel for the respondent has prayed for time to file his reply in this regard.

Admit.

Respondents are directed to submit reply by four weeks and rejoinder, if any, by two weeks thereafter. As the balance of convenience in favour of the applicant, I stay the operation of the Second Show Cause Notice dated 04.05.2017 as well as direct the enquiry authority not to proceed further with the enquiry proceedings till all the relied upon documents be supplied to the applicant as per his letter dated 11.10.2017.

Let the matter be listed under the heading '**Hearing**' on **07.11.2022**.

URMITA DATTA (SEN)
MEMBER (J)

A.K.P.