# WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata - 700 091.

Present: HON'BLE JUSTICE SOUMITRA PAL, HON'BLE CHAIRMAN &

HON'BLE SAYEED AHMED BABA, ADMINISTRATIVE MEMBER.

Case No. – OA 433 of 2019.

SWAJAN SHOME – VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order

For the Applicants : Mr. A.K.Niyogi,

Advocate.

For the State respondents : M

Mr. G.P. Banerjee,

Advocate.

13 2.5.2022

In this application Swajan Shome, the applicant has prayed for certain reliefs, the relevant portion of which is as under:-

"....a)Direction upon the respondent to recall, rescind and cancel the impugned memo No. <u>844/S</u> dated 24.11.2017; S/18/2017

b) To pass an order directing the respondent no. 3 and 4 to expunge the adverse entry of ACR for the period from 26.05.2016 to 31.03.2017 and subsequent period from 01.04.2017 to 22.11.2017...".

The matter was admitted on 30<sup>th</sup> August, 2019 when the following order was passed:-

"The original application is admitted for hearing. The respondents are directed to file reply within a period of 04(four) weeks and rejoinder, if any, may be filed by the applicant within a period of 02 (two) weeks thereafter.

The respondent no. 3, Additional Director General of Police, West Bengal (L & O) and Inspector General of Police (Headquarters), West Bengal is directed to produce the original A.C.R. of the applicant for the relevant period i.e. from May 26, 2016 to March 31, 2017 and from April 01, 2017 to November 22, 2017 at the time of hearing of the application. List the matter under the heading 'Reply/Rejoinder' on November 18, 2019."

Reply and rejoinder have been filed and are on record.

Today, pursuant to the directions contained in the said

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order, Mr. Banerjee has produced the original ACR of the applicant for the period from 26<sup>th</sup> May, 2016 to 31<sup>st</sup> March, 2017 when the applicant was Circle Inspector of Kalna and from 1<sup>st</sup> April, 2017 to 22<sup>nd</sup> November, 2017 when the applicant was Inspector of Police.

Records have been inspected by Mr. A.K. Niyogi, learned advocate for the applicant and Mr. G.P. Banerjee, learned advocate for the State respondents.

Learned advocate for the applicant submits the adverse remarks recorded, as evident from memo dated 24<sup>th</sup> November, 2017, is not consonance with the Police Regulations of Bengal as cryptic order has been passed without referring to the factual aspect of the matter and therefore it may be quashed.

Learned advocate appearing on behalf of the State respondents submits that in the original application the applicant has suppressed the fact that three departmental proceedings were pending and in one matter an order has been passed inflicting major punishment on the applicant which has not been controverted in the rejoinder and as the applicant has not come with clean hands, the application may be dismissed.

In reply Mr. Niyogi submits that an opportunity may be granted to the applicant to correct himself by granting leave to file representation before the authority concerned regarding his adverse remarks as mentioned in the said ACRs.

Heard learned advocates for the parties.

There is no dispute that in the original application the applicant has suppressed the fact that he was facing three departmental proceedings. In one of the proceedings, he was inflicted a major

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punishment. We were about to dismiss the application, however, in view of the submission made by Mr. Niyogi and in order to enable the applicant to correct himself, the application is disposed of by granting liberty to the applicant to file representation afresh against the adverse entries in the ACRs for the period from 26<sup>th</sup> May, 2016 to 31<sup>st</sup> March, 2017 and from 1<sup>st</sup> April, 2017 to 22<sup>nd</sup> November, 2017 before the Additional DGP (L/O), Police Directorate, Bhabani Bhawan, Kolkata, the respondent no. 3 within four weeks from the date of obtaining a copy of this order downloaded from the internet. If representation is filed, same shall be disposed of by the respondent no.3 by passing a reasoned order to be communicated to the applicant within eight weeks. This order is passed in view of the submission by Mr. Niyogi and to give opportunity to the applicant to rectify himself.

Let the records containing confidential report of the applicant be returned to Mr. Banerjee.

The matter is disposed of.

(SAYEED AHMED BABA) MEMBER(A) (SOUMITRA PAL) CHAIRMAN.

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