<u>order sheet</u> WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. - <u>OA 469 of 2023</u>

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

Serial No. and Date of order For the Applicant

For the State respondent

 $1 \\ 08.08.2023$

Mr. K. Basu, Mr. N. Pal, Mr. S. Banerjee, Ld. Advocates.
Ms. R. Sarkar, Mr. S. Debray, Mrs. A. Bhattacharyya, Mr. R. Bag, 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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

Affidavit of service filed be kept on record.

The prayer in this application is for setting aside the charge sheet Memo. No. 811 dated 10.03.2023 and a show cause Memo. No. 32 dated 27.02.2023. By this charge sheets and show causes, the respondent had issued upon the applicant. The applicant was the BL & LRO, Moyna, Purba Medinipur.

Mr. K. Basu, learned counsel for the applicant prays for an interim order restraining the respondents not to proceed further in this departmental proceedings without seeking compliance of the law.

Objecting to such an interim order, the learned Departmental Representatives submits that only a charge sheet has been issued which is the initiation of the departmental proceedings. The charges as can be seen from the charge sheets are grave in nature. Since this application prays for setting aside the show cause and the charge sheets, this application at this stage is not admissible.

Mr. Basu further submits that all the relevant documents were not made available to the applicant as the Charged Officer which he is entitled by law.

Attention of the Tribunal is drawn to an Order of the Hon'ble High Court passed in WPST 113 of 2022, the relevant portion of which is as under:

"Considering the submission of the petitioner that a reply to the showcause notice could not be filed within stipulated time due to medical emergency which, in fact, filed out of time, we direct the authorities to treat the same to have

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been filed within time and proceed in accordance with law. Since the real cause of action for the instant application has lapsed by virtue of a subsequent event, no further consideration is required in this writ-petition."

Responding to the prayer of interim order in view of the objection raised by the learned counsel for the applicant that relevant documents have not been provided to the applicant as is required by law, Ms. Sarkar refers to page 127 which appears to be a letter written by the charged officer dated 28.10.2022. In the letter the charged officer states the following lines relating to inspection of documents:

"I have inspected the documents which have been provided by the office of the B.L.&L.R.O., Moyna in connection to the Mutation cases which have been alleged in the show cause letter dated 20.09.2022......"

Submission of Ms. Sarkar is that in the above documents of the applicant it is apparently clear that he has been shown all the primary documents.

After hearing the submissions of the learned counsels and perusing the documents annexed to this application, the Tribunal is of the view that since the departmental proceeding has been initiated by show-causing the charged officer and issuing the chargesheet, the prayer for restraining the respondent authority from proceeding in the departmental proceeding has no merit. Further, reference has been made to an order passed by the Hon'ble High Court in WPST 113 of 2022 by which it has been made clear that the respondent Department can proceed in the departmental proceeding as per law. Therefore, restraining the respondent by an interim order will not only be interruptive but also outside the purview of this Tribunal and non-compliance to the Hon'ble High Court's order.

With regard to the objection of the learned Departmental Representative on admitting this application, the Tribunal does not find any reasonable ground since the applicant has approached the Tribunal seeking remedy, such opportunity of remedy should not be denied to the applicant.

The matter is admitted.

Let the matter appear under the heading "Hearing" on 04.01.2024. Reply, Rejoinder, if any, in the meantime.

SAYEED AHMED BABA Officiating Chairperson & Member (A)

SCN.