

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-474 of 2022

Milan Kanti Mandal VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>03</u> 22.08.2022	For the State Respondents	:	Mr. S.N. Roy. Learned Advocate.

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 11th 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 order dated 10.05.2022 (Annexure-C) and office order dated 22.05.2022 whereby the applicant has been punished with a penalty of withholding of annual increments for a period of two years without cumulative effect. However, it has been again stipulated that as he has been already imposed with a punishment on the same date in another Departmental Proceedings, the penalty imposed vide order dated 10.05.2022 would be imposed one after another/served consecutively. It has been submitted by the counsel for the applicant that there is no such provision of imposing punishment one after another, which always go simultaneously. Further it has been submitted that even he has not been served with any Enquiry Report though the Hon'ble Apex Court has held that even if there is no provision for supply of Enquiry Report in a service rule, non supply of Enquiry Report is to be treated as violation of natural justice. Therefore, the counsel for the applicant has prayed for quashing of the orders dated 10.05.2022 and 22.05.2022.

The counsel for the respondent has admitted that no Enquiry Report has been served upon the applicant; however, he is not in a position to submit that whether there is any such provision in the service

ORDER SHEET

Form No.

Milan Kanti Mandal

Case No. **OA-474 of 2022**

Vs.

The State of West Bengal & Ors.

rule to impose punishment consecutively.

I have heard the parties and perused the records. It is settled principle of law that even if there is no provision in the service rules to provide Enquiry Report to the delinquent in case of minor penalty, however, non supply of such Enquiry Report also amounts to violation of natural justice as held by the Hon'ble Apex Court in the case of Managing Director, ECIL, Hyderabad & Ors. Vs. B. Karunakaran reported in (1993)4 SCC 727.. Therefore, I quash and set aside both the orders dated 10.05.2022 and 27.05.2022 and remand back the matter to the Disciplinary Authority with a direction to serve the copy of the Enquiry Report to the applicant and conclude the Departmental Proceedings after granting him an opportunity to submit representation and pass final speaking and reasoned order within a period of four months from the date of receipt of this order. Accordingly, OA is disposed of with no order as to costs.

URMITA DATTA (SEN)
MEMBER (J)

sc