

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 562 of 2021

Amitava Chanda -- VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>01</u> 12.08.2021	For the Respondent	: Mr. G.P. Banerjee, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under sub section (6) of Section 5 of the Administrative Tribunals Act, 1985.

The instant applicant has been filed mainly challenging the Charge Sheet dated 16.12.2019. As per the applicant, he was charge sheeted on 16.12.2019 under the Prevention of Corruption Act, 1988. However, one criminal case had also been initiated on the self same charges and witnesses. Therefore, the counsel for the applicant has submitted that in both the Departmental Proceedings and Criminal Proceedings, identical charges and witnesses being involved. Therefore, as per the settled principle of law, the disciplinary proceeding should be stayed till the disposal of the criminal proceeding. The counsel for the applicant has further submitted that the applicant has also submitted one representation dated 18.01.2021 as well as 04.08.2021 before the enquiry authority for staying of disciplinary proceeding. However, he wants to submit comprehensive representation before the disciplinary authority. The counsel for the applicant has further submitted that the disciplinary authority be directed to consider his representation and in the interim the disciplinary proceeding should be stayed as per the below mentioned judgments. The counsel for the applicant has referred the following judgement and has prayed for extension of the benefit of those judgments.

- i) **(1999) 3 Supreme Court Cases 679 : Capt. M. Paulanthony Vs.**

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Amitava Chanda

Case No. **OA 562 of 2021**

Vs.
The State of West Bengal & Ors.

Bharat Gold Mines Ltd. and Another

ii) **Air 1988 Supreme Court 2118 : Kusheshwar Dubey Vs. M/s.
Bharat Cooking Coal Ltd. and others**

Heard both the parties and perused the record.

The counsel for the respondents has prayed for time to file reply. The counsel for the respondent has submitted that he has no objection if the respondent authority would be directed to consider such representation in accordance with law. Accordingly, the applicant is at liberty to file comprehensive representation before the respondent authority along with judgments as mention by him within a period of 1 (one) month time. The disciplinary authority has further directed to consider the case of the applicant and communicate his decision by way of speaking and reasoned order within a period of 1 (one) month from the date of received of such representation, if any. The counsel for the respondent are directed to maintain status-quo with regard to disciplinary proceeding till the date of consideration of representation and to file reply by 8 (eight) weeks and rejoinder, if any, by 3 (three) weeks thereafter.

Both the parties are at liberty to mention with prior notice to each other.

Let the matter be listed on **18.11.2021** under the heading
"Reply/rejoinder"

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

HS

Mrs. URMITA DATTA (SEN)
MEMBER (J)