

**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-660 of 2021**

**Ashoke Deb 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>01</u> 09.09.2021	For the State 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 24<sup>th</sup> December, 2020, 456-WBAT/2J-15/2016 dated 16<sup>th</sup> July, 2021 and 586-WBAT/2J-15/2016 dated 31.08.2021 issued in exercise of the powers conferred under sub-section (6) of Section 5 of The Administrative Tribunals Act, 1985.

The instant application has been filed challenging the Memo. No. 658 dated 03.09.2021 issued by the District Registrar, Nadia being the disciplinary authority, whereby second show cause notice under Rule 10 (12) (b) of W.B.S. (C.C.A) Rules, 1971 was issued on the basis of enquiry report.

As per the applicant, from the perusal of the letters dated 18.10.2019 as well as 03.09.2021, it would be evident that both the enquiry authority and present disciplinary authority are same and identical person. The enquiry authority initially was in the post of District Sub-Registrar, Nadia. However, subsequently he was posted to the post of District Registrar, Nadia and became the disciplinary authority. Therefore, as per the settled principle of law, the same person cannot be the enquiry authority as well as disciplinary authority. It has been further submitted that even no enquiry report has been served upon the applicant though second show cause notice proposing severe punishment of removal from service has been served upon him. Therefore, he has prayed for interim protection.

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The counsel for the applicant has further submitted that he wants to make a representation before the authority as the Memo No. 658 dated 03.09.2021 was served upon him only on 05.09.2021, whereby the applicant was directed to file reply failing which the punishment would be inflicted within seven days. Therefore, he could not get the chance to make any representation.

The counsel for the respondent has basically admitted the fact that both the enquiry authority and the disciplinary authority are the same and identical person though to different post holder at different point of time. However, the applicant could have make representation before the authority for consideration.

Heard both the parties and perused the records.

From the perusal of both the letters dated 18.10.2019 and 03.09.2021, it is noted that the signatory of both the letters are the same person, which has also been admitted by the state respondents though he was holding different position at different point of time.

In view of the above as admittedly both the enquiring authority and the present disciplinary authority is the same and identical person , I quash and set aside the Memo No. 658 dated 03.09.2021 with a direction to the applicant to make proper representation before the higher authority for change of disciplinary authority and supply of enquiry report and other relevant documents and the authority concerned is directed to take decision and communicate the same by way of reasoned and speaking order within a period of four weeks from the date of receipt of the said representation after granting an opportunity of hearing to the applicant and to take appropriate

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steps thereafter. Accordingly, the OA is disposed of with no order as to costs.

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Since the 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.

Mrs. URMITA DATTA (SEN)  
MEMBER (J)

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