

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA 681 of 2022

Shubhendu Bhattacharjya -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. D.N. Ray, Mr. M.N. Royt, Mr. G. Halder, Ld. Advs.
<u>02</u> 09.11.2022	For the State Respondent	: Mr. A.R. Mukherjee, Ld. Adv. Mr. A. De, Ms. R. Sarkar, Mr. S. Debroy, Departmental Representatives.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 536-WBAT/2J-15/2016 dated 26th August, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

The instant application has been filed challenging the Show Cause Notice dated 28.09.2022. The counsel for the applicant has strenuously submitted that in the earlier occasion, on the self-same charges, one Charge-Sheet was issued on 02.04.2018 and being aggrieved with, the applicant challenged the said Charge-Sheet in OA 420 of 2020, which was finally disposed of vide order dated 11.12.2020 with a direction to the Respondent No. 2 to conclude the proceedings within a stipulated period of six months time as 2nd Show Cause Notice with regard to the said Charge-Sheet was already issued on 07.01.2019 against which the applicant had submitted his reply on 18.02.2019. However, as no final order was passed, the applicant had challenged the said proceedings. It was further submitted in the order dated 11.12.2020 that in default of passing any reasoned order within the stipulated period of six months time, the proceedings would be vitiated. The said order dated 11.12.2020 was, thereafter communicated to the respondents vide letter dated 23.12.2020. However, no order was passed during that stipulated period of six months time. Therefore, the said disciplinary proceedings dated 02.04.2018 ought to be vitiated, but surprisingly, the respondent had served the final order dated 12.05.2021 after six months stipulated time without asking for any extension of time to pass the reasoned order beyond six months.

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Being aggrieved with, the applicant again approached this Tribunal in OA 506 of 2021, which was disposed of vide judgment dated 15.06.2022 by way of quashing the final order dated 12.05.2021 as well as disciplinary proceedings has been vitiated as per the order dated 11.12.2020.

Even then, the respondent, without preferring any appeal, has issued the impugned Charge-Sheet dated 28.09.2022 (Annexure-D) on the self-same charges. Being aggrieved with, the applicant has filed the instant application.

In view of the above, the counsel for the applicant has prayed for an interim protection by way of stay of operation of the impugned Charge-Sheet dated 28.09.2022.

The counsel for the respondent has prayed for some time to take instruction.

Heard the parties and perused the records. Since the applicant has a *prima facie* case on merit, the impugned Charge-Sheet dated 28.09.2022 is stayed till the next date. In the meantime, the respondents are directed to take instruction.

Let the matter be listed under the heading "**Admission Hearing**" on **16.11.2022**.

URMITA DATTA (SEN)
Officiating Chairperson & Member (J)

CSM/SS