

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 689 of 2022

Dr. Sabyasachi Roy -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. P. Ghosh,

Ld. Adv.

For the State Respondent : Mr. G.P. Banerjee,

Ld. Adv.

02

10.11.2022

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.

Affidavit of service filed today be kept on record.

The instant application has been filed challenging the Charge-Sheet dated 25.07.2022 (Annexure-A/27), which was communicated to him vide letter dated 12.10.2022. It has been vehemently submitted by the learned counsel for the applicant that the applicant had come earlier challenging the earlier Enquiry Report dated 04.09.2021 as well as suspension order dated 04.09.2021 out of the said purported Enquiry Report, which was quashed and set aside by this Tribunal by judgment dated 03.08.2022 passed in OA 722 of 2021. Another OA was also filed by the applicant challenging the earlier Memorandum dated 30.05.2022 issued on the basis of the said Enquiry Report dated 04.09.2021, which was also quashed and set aside by this Tribunal vide order dated 30.08.2022 passed in OA 370 of 2020 on the ground that since the enquiry report dated 04.09.2021 had already been set aside and as the Show Cause Notice dated 30.05.2022 was issued on the basis of the aforesaid Enquiry Report, therefore, the Show Cause Notice dated 30.05.2022 is not sustainable.

During the course of the hearing, the counsel for the applicant has drawn my attention to the date of the impugned Memorandum i.e. 25.07.2022 whereas this Tribunal passed both the orders by quashing the enquiry report and suspension order dated 04.09.2021 as well as Memorandum of Charge-Sheet dated 30.05.2022 vide its order dated 03.08.2022 and 30.08.2022 respectively. However, the counsel for the respondent without any further enquiry on the self-same issue, had issued this Memorandum dated 25.07.2022 in the month of July, when the earlier enquiry report and Charge-Sheet was

Form No.

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under challenge before this Tribunal.

Therefore, this Memorandum of Charge-Sheet is not maintainable as on the self same cause of action, two Memorandums of Charge-Sheet were issued on 30.05.2022 and 25.07.2022.

It has been further submitted by the learned counsel for the applicant that the Enquiry Officer has fixed hearing today at 2:30 p.m. though he had made a representation before the Enquiry Officer to stay the enquiry since this application is fixed for admission hearing today. Therefore, the counsel for the applicant has prayed for a direction upon the Enquiry Authority not to proceed with the enquiry till the further order.

However, the counsel for the respondent has prayed for an accommodation to take instruction and has assured that Enquiry Authority would not proceed till the next date.

Prayer is allowed.

Let the matter be listed under the heading "**Admission Hearing**" on **21.11.2022**.

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

CSM/SS