

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,
Case No. - OA 94 OF 2024**

SAURAV KRISHNA BASU - VERSUS- THE STATE OF WEST BENGAL & ORS.

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| Serial No. and Date of order | For the Applicant | : | Mr. T.D.Ray Advocate |
| <u>01</u> 01.04.2024 | For the State Respondents | : | Mr. Manujendra Narayan Roy Advocate |

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The applicant has prayed for a direction to the respondents to allow the applicant, being the charged officer to file his written statement of defence in connection with the proceedings No. 04/2022 dated 27.08.2022. Mr.T.D.Ray, learned counsel for the applicant draws attention to Regulation 861 (c) of Police Regulations of Bengal, 1943 and submits that as required, the disciplinary authority did not provide any reasonable time to the charged officer to file his written statement of defence. The relevant sentence of the regulation is as under:

“Where the person charged from whom a written statement is so required fails to present the same within the time fixed by the enquiring officer, the enquiring officer may record a finding against him or make such orders in relation to the proceedings as he thinks fit.”

As per Mr.T.D.Ray, the inquiring officer failed to provide such a time and opportunity to the charged officer to file his written statement of defence.

In response to what Mr.T.D.Ray submitted, Mr.M.N.Roy, learned counsel for the respondents submits that by the same Regulation, the charged

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officer was required to file such a written statement of defence within the reasonable time and no such direction or opportunity was required to be provided by the inquiring officer. He refers to the first sentence of the Regulation 861 (c), which is *“the person charged shall be required to put in within a reasonable time a written statement of his defence and to state whether he desires to be heard in person”*.

Mr.M.N.Roy, argues that by the very provision of Regulation 861 (c) appearing in the first sentence itself, the charged officer could have, besides preferring an open inquiry, given his statement of defence in the same letter. Instead he choose only to mention about the open inquiry, but kept silent on his responses to the various charges levelled against him in the charge sheet. Mr.T.D.Ray disagrees and submits that unless such an opportunity is provided by the inquiring officer, the charged officer was not in a position to file such a written statement of defence. Further Mr.M.N.Roy presents copies of directions given to the charged officer by his superior authority and submits that despite several such directions to appear before the authorities, the charged officer refused and is not cooperating with the ongoing disciplinary proceedings. Mr.T.D.Ray contends that such failure on part of the charged officer appear before the authorities was due to his illness and the same was also communicated to the authorities.

Having heard the submissions and considering the facts and circumstances of the case, it is clear to the Tribunal that the opening sentence of Regulation 861 (c) of Police Regulations of Bengal 1943 makes it amply clear that such written statement of defence is required to be submitted within a reasonable time by the charged person. From this sentence, it is unambiguous and presents a clear impression that the onus of filing such written statement of defence lies with the charged officer. The Tribunal has also noted that though the charged officer communicated his wish for an open inquiry, but such

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communication was silent regarding his responses to the charges framed against him. Further, after examining the copies of directions given to him requiring him to be present before the office of Deputy Superintendent of Police (Border), it is clear that somehow the charged officer is avoiding responding to such directions and not cooperating in the process of disciplinary proceedings.

Having observed the above, the Tribunal does not find any merit in the prayer of this application. It also appears that due to his non-cooperation, the disciplinary proceedings initiated in 2022 are yet to be completed. This Tribunal, therefore, directs the applicant as charged officer to cooperate with the disciplinary authority at every stage so that the D.P. is concluded at the earliest.

Accordingly, the application is disposed of.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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