

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

Case No. – OA-282 of 2017

Serial No. and Date of order	Gitesh Das Mahapatra For the Applicant	VERSUS – The State of West Bengal & Ors. : Mr A.K. Niyogi, Learned Advocate.
	For the State Respondents	: Mr. A. De, Ms. R. Sarkar Mr. S. Debroy, Departmental Representatives.

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31.03.2022

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11th February, 2022 issued in exercise of the powers conferred under Section 6 (5) of the Administrative Tribunals Act, 1985.

On consent of counsel for both the parties, matter has been taken up for hearing.

The instant application has been filed initially challenging the Memo dated 08.08.2014 by which the applicant was charge sheeted. (Annexure-A). However, during the course of hearing, the departmental representatives have produced another communication dated 07.09.2015 and has submitted that subsequently the department had realized that inadvertently draft Article of charges and draft statement of imputation of misconduct was issued vide Memo dated 18.08.2014. Further vide Memo dated 07.09.2015; they sent copies of Article of Charges and Statement for Imputation of misconduct to the applicant and had proceeded on the basis of the said charge sheet.

However, the counsel for the applicant has submitted that no such letter dated 07.09.2015 was received by him. The respondents are also not in a position to show that said corrected Article of Charges and Statement for Imputation of misconduct was ever served upon him. However, on the basis of the said Charge Sheet, they had proceeded with the disciplinary proceedings and had issued Second Show Cause Notice, proposing punishment order dated 30.11.2021, which was

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communicated to the applicant vide letter dated 21.02.2022. However, the departmental representative has submitted that as the applicant did not receive the final copy of the Article of Charges and statement of imputation of misconduct, therefore, they do not want to proceed with the impugned draft Charge Sheet dated 08.08.2014 and communication letter dated 07.09.2015 and want to give fresh chance to the applicant by way of issuing a fresh charge sheet.

However, the counsel for the applicant has submitted that though he has nothing to say if the respondents are withdrawing the impugned Charge Sheet dated 08.08.2014 and communication letter dated 07.09.2015, however, he has vehemently opposed to grant any leave to the respondents to issue fresh charge sheet.

The counsel for the applicant has further submitted that due to such mistake on the part of the respondents, he has been suffered to get his promotion during this period.

Heard both the parties and perused the records. It is noted that the applicant had initially challenged the impugned draft Charge Sheet dated 08.08.2014 on the ground that the said charge sheet was issued in a draft stage. Further it has been submitted by the counsel for the applicant that the subsequent final Article of Charges and Statement of misconduct was not received by him. However, the respondents have themselves submitted that they do not want to proceed with the impugned Charge Sheet dated 08.08.2014 as well as communication dated 07.09.2015. Thus, subsequent issuance of Second Show Cause Notice proposing punishment (dated 30.11.2021) as well as the impugned Charge Sheet dated 08.08.2014 and communication dated 07.09.2015 has become infructuous. Accordingly, OA is disposed of being infructuous with no order as to costs.

Since the circumstances beyond control, the Registry is unable to

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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.

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URMITA DATTA (SEN)
MEMBER (J)

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