

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Justice Mr. Soumitra Pal, Chairman****The Hon'ble Dr. Subesh Kumar Das, Member (A)****Case No – OA- 425 of 2020.****Madhai Charan Pal. Vs The State of West Bengal & Others.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>1</p> <hr/> <p>09/11/2020</p>	<p style="text-align: center;"><u>Vacation Bench</u></p> <p>For the Applicant : Mr. M.N. Roy, Mr. G. Halder, Advocates</p> <p>For the State Respondents: Mrs S. N. Ray, Advocate.</p> <p>At the very outset, Mr. M.N. Roy, learned advocate for the applicant submits that in view of the urgency, copies of the application have been served on the respondents and affidavit of service to that effect is filed in the court. Let it be kept on record.</p> <p>In this application, Madhai Charan Pal, the applicant has prayed for certain reliefs, the relevant portion of which is as under :-</p> <p><i>“ (a) An order do issue thereby setting thereby aside and/or quashing the rejection order passed by the respondent No.4 (being the Enquiring Authority) to the representation dated 17.10.2020 praying for engaging an Advocate as defense assistant in the on-going disciplinary proceeding against your applicant, as the enquiring authority is neither the disciplinary authority nor the appellate authority of your applicant to pass such rejection order.</i></p>	

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	<p><i>(b) An order to issue directing the Disciplinary Authority being the respondent No.3 the Superintendent of Police, Murshidabad to take a decision on the representation dated 17.10.2020 prying for engaging an Advocate on defense assistant in the on-going disciplinary proceeding against your applicant in accordance with law within a stipulated period of time.</i></p> <p><i>(c) A further order do issue directing the respondent authorities specially respondent No.3 herein The Superintendent of Police, Murshidabad Police District (being the disciplinary authority) to change the enquiring officer being respondent No.4 herein immediately, as the respondent No.4 has already made up his mind and prejudged the issue.”</i></p> <p>It is submitted by Mr. Roy that the applicant who is SRO II Murshidabad District Police Force is facing an enquiry on two counts of charges. He has submitted his written defence wherein he has pleaded not guilty to the charges framed against him and he has pleaded “for an open enquiry”. It appears though the applicant has made a prayer for engagement of advocate on his behalf to defend</p>	

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	<p>him in his departmental proceeding before the Superintendent of Police, Murshidabad Police District, the respondent no.-3 and representation to that effect was submitted on 17.10.2020 being annexure-“D” to the application, however, a reply has been given which is not only devoid of any reason it also speaks of bias. In this regard, our attention has been drawn at page-20 of the application.</p> <p>Mr. S.N. Ray, learned advocate for respondent submits that the reply furnished by Circle Inspector, Lalbagh, respondent no.-4 appearing at page-20 of the application to the representation dated 17.10.2020 is just and proper.</p> <p>In reply it is submitted that on behalf of the applicant that the order at page-20 may set aside and proceeding may be stayed.</p> <p>Heard the learned advocate for the parties. We find that pursuant to the representation dated 17th October, 2020, a reply has been furnished by the authorities which is as under :-</p> <p><i>“In response to your letter dated 17.10.2020 was sent to this Office Mail on 18.10.2020 at 21:56 hrs. From your personal Mail Id viz. Pal.madhai.64@gmail.com for engagement of an Advocate on behalf of you to face the open enquiry. I do hereby</i></p>	

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	<p><i>informed you that your prayer is considered and rejected as you (CO) have been serving many years in Police Service and the matter of enquiry relates to an issue which is very basic and fundamental knowledge of every police personnel (.)"</i></p> <p>.</p> <p>We find that though the representation has been rejected, however, while passing the order under challenge no reason whatsoever has been given with reference to the Rules. Therefore, since it is a cryptic and non-speaking order, the said order at page-20 passed by the respondent no.-4 is set aside and quashed as sought for in prayer 'a' in the application. Since the representation dated 17th October, 2020 was submitted before the Superintendent of Police, Mushidabad District Police, the respondent No.3, in view of prayer 'b' the said respondent is directed to give a reply within a week from the date of communication of this order downloaded from the internet/website. Till reply is given the disciplinary proceedings will remain stayed. However, we make it clear that we have not dealt with the other issues raised and other prayers being particularly prayer "c" which has been sought for in the application and all other</p>	

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GM	<p>points are left open. The application is allowed to the extent as indicated.</p> <p>Since for circumstances beyond control the Registry if 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.</p> <p style="text-align: center;"> (SUBESH KUMAR DAS) MEMBER(A) </p> <p style="text-align: center;"> (SOUMITRA PAL) CHAIRMAN </p>	