

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Urmita Datta (Sen) Member (J) &  
Hon'ble P. Ramesh Kumar, Member (A)

OA—428 of 2018

**Paresh Chandra Bera**

**Vs**

**The State of West Bengal & Ors..**

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><u>03</u> 30.08.2018</p> <p>Page /1</p>	<p>For the applicant : Mr. M.N. Roy, Learned Advocate.</p> <p>For the respondent : Mr. S. Ghosh, Learned Advocate.</p> <p>The instant application has been filed praying for following relief :-</p> <p>a) An order do issue thereby setting aside, quashing the Departmental Proceeding. Memorandum No. 02/Ag/O/Sec-23/14, dated, Kolkata the 9<sup>th</sup> February, 2015, being the Charge Sheet, Final Order of Punishment issued by Respondent No. 2 herein, vide Order No. 11/AG/O/Sec-23/14 dated, KJolkata , the 16<sup>th</sup> April, 2018 and enquiry report, if any, immediately as the same has been done in violation of the Principles of Natural Justice (i.e. without serving Second Show Cause Notice and Enquiry Report based on which the final order of punishment</p>	

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<p style="text-align: center;">03</p> <hr/> <p style="text-align: center;">30.08.2018</p>	<p style="text-align: center;">has been passed.</p> <p>b) An order do issue thereby setting aside, quashing the Final Order of Punishment issued by Respondent No. 2 herein, vide order vide No. 11/AG/O/Sec-23/14 14 dated Kolkata, the 16<sup>th</sup> April, 2018 immediately as the same has been done in violation of the Principles of “Natural Justice”.</p> <p>c) Any other appropriate order/orders direction/directions as this Hon’ble Tribunal may deem fit and proper to protect the right of the applicant and in the ends of justice.</p> <p>According to the applicant, while he was working as Additional Director of Agriculture (Administration) during the period from 2009 to 2011, he submitted false tour diary and T.A. bills to the tune of Rs. 3,456/- by causing misappropriation of Govt. exchequer. As per the applicant, he was charge sheeted vide Memo No. 02/Ag/O/Sec-23/14, Kolkata dated, the 9<sup>th</sup> February,</p>	

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<p style="text-align: center;">03 30.08.2018</p> <p>Page /3</p>	<p>2015. On receipt of the aforementioned charge sheet, the applicant submitted written statement of defence on 23.07.2015 (Annexure-B). However, without following the provisions of Rule 10 (12) of the W.B.S. (CCA) Rules, 1971 i.e. without issuance of any second show cause notice or supplying the enquiry report, the disciplinary authority has imposed its punishment by way of reduction of his pay to three stages lower in the current pay band till retirement. It has been further directed that during the said penalty he will not earn any increment of pay along with other punishments. Being aggrieved the applicant has filed the instant application.</p> <p style="text-align: center;">According to the counsel for the applicant, the applicant has been punished under Section 8 (iv). However, as per Rule 10 (12), if any employee has to be punished under Rule 8 (iv), he should have been served with a notice stating the proposed punishment and grounds as well as copy of the enquiry report should be served upon him before imposition of any punishment. Since the respondents have not complied with the aforesaid provisions of the Rules, the impugned</p>	

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