

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

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

The Hon'ble Mr. P. Ramesh Kumar, Member (A)

Case No – OA-1033 of 2018.

Ganesh Chandra Mondal. Vs The State of West Bengal &amp; 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 style="text-align: center;">03</p> <p>-----</p> <p>28-01-2019</p>	<p>For the Applicants : Mr. M. N. Roy, Advocate.</p> <p>For the State Respondents : Mr. G. P. Banerjee, Advocate.</p> <p>The instant application has been filed basically challenging the action/non-action on the part of the Disciplinary Authority by non-issuing any disagreement of note/notice to the applicant with regard to the appointment of fresh Enquiry Authority in connection with his disciplinary proceeding.</p> <p>As per the applicant, he was served with a Memo of charges dated 25-11-2014 with allegation of having disproportionate assets to the tune of Rs. 36,66,742/- as well as incomplete and misleading information to suppress the material particulars during declaration of assets. Subsequently, one enquiry officer was also appointed to conduct</p>	

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	<p>enquiry, wherein the applicant has participated and subsequently the enquiry officer has submitted his report to the Disciplinary Authority. However it has not been served upon him but after a lapse of 4(four) years the applicant has received one Memo dated 13-02-2018(Annexure-E) whereby a fresh enquiry authority has been appointed without serving the erstwhile enquiry report as well as disagreement note of the Disciplinary Authority to the applicant. Being aggrieved with, he has filed the instant application.</p> <p>During the course of the hearing, the Counsel for the applicant has fairly submitted that he is not pressing prayer 8(A). However the applicant has submitted that as per settle law as well as Hon'ble Apex Court Judgement in Punjab National Bank &amp; Others Vs. Kunjbehari Mishra reported in (1998) 7 SCC 1984, the Disciplinary Authority should serve the erstwhile enquiry authority report as well as disagreement note if any, should be served upon him before appointing any new enquiry</p>	

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	<p>officer who has been directed to initiate de novo enquiry.</p> <p>However, the Counsel for the respondent has submitted that there is no need for quashing of the order dated 13-02-2018 by which the new enquiry officer has been appointed to enquire de novo.</p> <p>We have heard both the parties and perused the records. It is observed that the erstwhile enquiry officer has already submitted his enquiry report. However the Disciplinary Authority may be not agreeable to such findings and have disagreed with the findings of the enquiry report has ordered for appointment of fresh enquiry officer, who has to enquire into the matter de novo. It is the settle principle of law that such action on the part of the Disciplinary Authority, by not serving the erstwhile enquiry report as well as disagreement note before directing for de novo enquiry by a new enquiry officer, violates the settle principle of natural justice. Therefore, we</p>	

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Mihir	<p>quash and set aside the impugned order dated 13-02-2018 by which the new enquiry officer was appointed to enquire into the charges of de novo and remanded back the order to the Disciplinary Authority with a direction to serve the disagreement note if any along with the erstwhile enquiry officer report and to take appropriate steps as per Rules as well as settle law. The applicant is also directed to cooperate with the authority.</p> <p>Accordingly, the OA is disposed of with the above observations and direction with no order as to cost.</p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER(A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER(J)</b></p>	