

**IN THE WEST BENGAL ADMINISTRATIVE
TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

**Present :-
The Hon'ble Smt. Urmita Datta (Sen)
Officiating Chairperson and Member (J)**

**J U D G M E N T
-of-**

Case No. MA – 125 of 2022 (O.A.-875 of 2021)

The State of West Bengal & others..... Applicant

-Versus-

Paresh Chandra Bera.....Respondents

**For the Applicant : - Mrs. Sunita Agarwal,
Mr. Sankha Ghosh
Advocates.**

**For the State Respondent:- Mr. Manujendra Narayan Roy,
Mr. Gourav Halder,
Advocates.**

**For the Public Service Commission:- Mr. Sourav Bhattacharjee,
West Bengal Advocate**

Judgment delivered on : 21st November, 2022

**The Judgment of the Tribunal was delivered by:-
The Hon'ble Smt. Urmita Datta (Sen), Officiating Chairperson and
Member (J)**

Judgement

1. The instant M.A. application has been filed by the State Respondents of the Original Application praying for extension of time to comply with the order dated 13.07.2022 passed in O.A. No. 875 of 2021. As per the applicant / respondent, the respondents / applicant filed one Original Application being No 875 of 2021, wherein the disciplinary authority was directed to conclude the disciplinary proceedings as per statutory provision and communicate his decision within three months from the date of receipt of the order. As per the present applicant, vide letter dated 12.09.2022, the Deputy Secretary, Vigilance Branch had asked reply from the Special Secretary, State Vigilance Commission, West Bengal with regard to the order dated 13.07.2022 for conclusion of departmental proceedings (Annexure – X2). Thereafter, the O.S.D. and EO, Special Secretary Vigilance Commission vide his letter dated 14.09.2022, which has been received on 21.09.2022 with a recommendation of penalty of cut of 10% in pension permanently (Annexure – X3). Thereafter, a Second Show Notice was issued to the respondent / applicant vide Memo dated 29.09.2022 against which reply was received from the respondents / applicant on 11.10.2022 (Annexure – X4). It has been further stated that since the Charge Officer is a Group – A Officer and the proposed penalty is major in nature, therefore, the Public Service Commission, West Bengal is needed to be consulted. In the above scenario, applicant / respondent has prayed for extension of time to conclude the disciplinary proceedings.
2. The respondent / applicant has been filed a written objection. It has been stated by the counsel for the respondents / applicant that vide order dated 13.07.2022; this Tribunal has specifically

directed the disciplinary authority to conclude departmental proceeding and communicate the final decision within a period of three months from the date of receipt of the order, in default, the proceedings would be vitiated. It has been strenuously submitted that the order dated 13.07.2022 was uploaded in the website on the same date. She had already communicated the said order on 14.07.2022. Therefore, respondent ought to have concluded the departmental proceedings within the stipulated period three months i.e. 13.10.2022. However, till date, the said disciplinary proceeding has not been concluded. Moreover, in the said order dated 13.07.2022, it was made clear that in default of conclusion of the departmental proceeding within stipulated period of time, the entire proceedings would vitiate. Therefore, the respondents / applicant has vehemently objected for granting of any extension of time to conclude the departmental proceedings as it has been automatically vitiated as per the order dated 13.07.2022.

3. Heard the parties and perused the records. It is noted that the applicant has challenged the departmental proceedings in O.A. No. 875 of 2021, which was disposed of vide judgement dated 13.07.2022 with the following observation and direction:

“It is further observed that the disciplinary proceeding was initiated in the year 2015, however, after granting opportunity to the respondents by this Court in earlier occasion, they did not follow the proper procedure for completion of the Departmental Proceedings. Even the applicant, being retired in the meantime in the year 2020, is not getting the pensionary

benefits due to such pendency of Disciplinary Proceedings, where the applicant has no fault.

Therefore, I direct the Disciplinary Authority to conclude the Disciplinary Proceedings strictly after complying with the statutory provision as per settled principles of law and communicate his decision within three months from the date of receipt of the order otherwise the Disciplinary Proceedings would be vitiated. Accordingly, the OA is disposed of with no order as to costs.”

From the above, it is clear that though the disciplinary proceeding was initiated in the year 2015, however, due to the non-compliance of proper procedure, the departmental proceeding is still pending. In the mean time, the applicant retired in the year 2020. However, the applicant / respondent was granted further chance to conclude the departmental proceeding within three months from the date of receipt of the order with a clear stipulation that otherwise the disciplinary proceeding would be vitiated. Therefore, the respondents were well aware that they have to conclude the disciplinary proceeding within that stipulated period of time otherwise the entire proceeding would be vitiated. In that scenario, even receiving the order on 14.07.2022 till date they could not conclude the departmental proceeding. Even they have not approached before the Court prior to the completion of three months stipulated time for extension of further time to conclude the departmental proceeding. If they are eager to complete the disciplinary proceeding which is pending since 2015, they could have approach the Court before

completion of three months time as in the earlier order dated 13.07.2022, there was a clear stipulation with default clause that the disciplinary proceeding should be completed within three months from the date of receipt of the order otherwise the said proceeding would be vitiated. Therefore, after afflux of time, the said disciplinary proceeding has been automatically vitiated. Therefore, there is no scope for granting any extension of time to conclude the departmental proceeding. Accordingly, the M.A. is rejected with no order as to costs.

URMITA DATTA (SEN)
Officiating Chairperson and Member (J)

A.K.P.