

**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 & Member (J)

J U D G M E N T

-of-

Case No. : O.A. 552 of 2015

Tapan Kumar Das Gupta Applicant.

-Versus-

The State of West Bengal & Others. Respondents.

**For the Applicant : Mr. A.K. Das Sinha,
Ld. Advocate.**

**For the State Respondent : Mr. G.P. Banerjee,
Mrs. S. Agarwal,
Ld. Advocates.**

Judgment delivered on : 8th September, 2022.

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

J U D G M E N T

The instant application has been filed praying for following reliefs :

“ a) An order quashing and setting aside the impugned Final Order and the Appellate Order which are Annexures “C” and “E” respectively to this application;

b) Issuance of any other order or orders and/or direction as this Hon’ble Tribunal may deem fit and proper.”

2. As per the applicant, while he was attached to Sajnekhali WildLife Sanctuary Range, Sundarban Tiger Reserve as a Range Officer. The Conservator of Forests and Field Director, Sundarban Tiger Reserve issued Charge-Sheet (Annexure-A) dated 20.05.1999 alleging 3 (three) charges and the applicant was directed to submit written statement of defence within 7 days. In compliance to that, the applicant submitted a written statement of defence. The respondent authority, not being satisfied with the reply and/or written statement of defence, had started departmental proceedings by appointing Enquiry Officer, who ultimately submitted a report declaring that two charges have been proved and one charge has been partly proved.

3. As per the applicant, the disciplinary proceeding was initiated in the year 1999 and the applicant had duly participated in the said proceedings, however, after more than twelve and half years, the Disciplinary Authority issued the second Show-Cause Notice dated 07.12.2011 proposing punishment. In response to that, the applicant duly submitted his reply. However, the Disciplinary Authority issued his Final Order dated 22.12.2011 and had imposed punishment of “Censure” (Annexure-C). It has been submitted by the counsel for the applicant that though the Disciplinary Authority himself had observed that due to such delay in conclusion of disciplinary proceeding, the applicant had suffered mental agony and anxiety, which is not less than a punishment for him but imposed a punishment of “Censure” amounts to double jeopardy.

4. Being aggrieved with the Final Order dated 22.12.2011, the applicant preferred an appeal before the Appellate Authority. However, as the said appeal was pending for long time before the Appellate Authority, the applicant preferred an application being

OA No. 284 of 2014, which was finally disposed of with a direction to the Appellate Authority to dispose of the appeal within a stipulated period of time vide Order dated 16.01.2015 by way of directing the Appellate Authority to dispose of the appeal within three months. Thereafter, the Appellate Authority had passed the Appellate Order dated 07.04.2015 in a mechanical way by way of affirming the order of the Disciplinary Authority vide Order dated 07.04.2015.

5. Being aggrieved with, the applicant had filed the instant application. It has been submitted by the applicant that the respondent had prolonged the disciplinary proceedings from 1999 to 2011 and in the interim, the applicant did not get any due promotion due to the pendency of the disciplinary proceedings, which amounts to punishment and for which the applicant not only suffered financially by not getting any promotion but he also suffered extreme mental agony and the Appellate Authority without considering the same had mechanically affirmed the final order of the Disciplinary Authority.

6. It has been further submitted that the disciplinary proceeding is liable to be quashed as per the settled principle of law as held by the Hon'ble Apex Court in the case of State of Maharashtra v. Bani Singh & Another reported in 1990 (supp) SCC 738.

7. The respondents had filed their reply when it has been submitted that the applicant retired from the service on superannuation on 30.04.2013 and the final order passed by the Disciplinary Authority dated 22.12.2011, which was upheld by the Appellate Authority vide Appellate Order dated 07.04.2015 as the applicant was imposed with the punishment of "Censure" and he has retired from service, the prayer for quashing of the appellate order and final order has become infructuous. It has been further submitted that the case of Bani Singh is not applicable in the instant case.

8. I have heard both the parties and perused the records. It is noted that admittedly the disciplinary proceeding was initiated in the year 1999. But the said disciplinary proceeding was concluded on 20.12.2011. However, no explanation has been given for such delay in concluding the disciplinary proceedings. Even the Disciplinary Authority vide his Order dated 20.12.2011 had observed inter-alia:

“I have gone through the submission of the delinquent and also the report of the enquiry and observed that Government has in reality suffered no financial loss as the money was immediately recovered. This is observed not as a condonation of the act of misappropriation on part of the delinquent and not simply as a matter of fact after so many years of the event.

There has been an inordinate delay in finalizing the departmental enquiry report (May 1999 to Sept. 2011 more than twelve and half years) which is perhaps no less a punishment which has caused mental agony and anxiety to the officer concerned. It is felt that no real purpose will be served by punishing him severely as he is on the verge of his retirement (superannuation on 31.04.2013).

In view of the above, it is hereby ordered that the Delinquent Officer Sri T.K. Dasgupta, FR should be censured and the same is to be recorded in his service book.”

9. From the perusal of the aforementioned Final Order dated 20.12.2011, it is noted that the Disciplinary Authority himself has observed that there is no pecuniary loss to the Government and the applicant had suffered financial loss and mental agony due to such long pendency of such disciplinary proceedings and has imposed punishment of “Censure”, which is a minor one.

10. It is noted that though the Disciplinary Authority took more than twelve years time to conclude the disciplinary proceedings, however, he has imposed only punishment of censure, which is the lowest minor penalty prescribed under the West Bengal (Classification, Control and Appeal) Rules, 1971. Moreover, as per the settled principle of law, the punishment of censure has no impact on promotion or other pension and pensionary benefits. Further, the case of Bani Singh (supra) is not relevant as in the said case, the disciplinary proceedings itself was initiated after a long time, but in the instant case, the disciplinary proceedings was initiated earlier in 1999, however, the department took more than twelve years to conclude the same. However, as the applicant has suffered for long twelve years and only the punishment of censure has been imposed upon him, he is entitled to get all the benefits including promotion, if due during this period.

11. Further as the punishment of censure has been imposed on the proven charges, therefore, in my considered opinion, quashing of the punishment of censure does not warrant after completion of

disciplinary proceedings. However, the applicant would be entitled to promotions, if any due during this period.

12. Accordingly, the OA is **disposed of** with the above observations with no order as to costs.

Urmita Datta (Sen)
Officiating Chairperson & Member (J)