

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

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

**Case No. – OA-739 of 2021**

**Arunavo Gupta VERSUS – The State of West Bengal & Ors.**

Serial No. and Date of order	For the Applicant	:	Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
<u>08</u> 21.04.2022	For the State Respondents	:	Mr. S.N. Roy, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt.-II) dated 11<sup>th</sup> February, 2022 issued in exercise of the powers conferred under Section 6 (5) of the Administrative Tribunals Act, 1985.

On consent of counsel for the parties, matter has been taken up.

The instant application has been filed praying for following relief :-

- a) An order do issue thereby quashing/setting aside the entire Disciplinary Proceeding so initiated against the applicant vide Memorandum No. 206-E (Vig) dated 06<sup>th</sup> day of August, 2014 including the enquiry report and the Second Show Cause Notice, immediately as the respondent authorities have miserably failed to conclude the departmental proceeding in terms of the solemn judgement dated 12.02.2021 passed in OA No. 31 of 2021.
- b) An order do issue thereby setting aside/quash/cancel/rescind the entire departmental proceeding initiated against your applicant vide Memorandum No. 206-E (Vig) dated 06<sup>th</sup> day of August, 2014 immediately.
- c) A further order do issue directing the respondent

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authorities to transmit records pertaining to the instant case so that conscionably justice can be done.

d) 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.

e) An order do issue thereby setting aside/quashing the entire departmental proceeding, enquiry report, second show cause notice and the final order of punishment issued vide order No. 129/1(3)-E (Vig) dated 08.03.2022 as the same has been passed in utter violation of the solemn order dated 12.02.2021 passed in OA No. 31 of 2021 as the respondent authorities miserably failed to conclude the departmental proceeding within the time as framed by this Hon'ble Tribunal.

According to the applicant, it is the second round of litigation as he had approached this Tribunal earlier in OA-31 of 2021 asking for direction to conclude the disciplinary proceedings within a stipulated period of time as the disciplinary proceedings were initiated vide Memo dated 06.08.2014, wherein the applicant had participated. Subsequently, he was served with Second Show Cause Notice dated 20.11.2018 proposing the tentative punishment, which was replied by letter dated 07.01.2019. As the disciplinary proceedings was not concluded, he approached this Tribunal in OA-31 of 2021, which was disposed of by the judgement dated 12.02.2021 directing the respondents to conclude the disciplinary proceedings within a period of six months, in default the proceeding should be vitiated.

According to the applicant, he had communicated the said order

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vide letter dated 22.02.2021 (Annexure-F) which was received by them on 24.02.2021 even no writ petition has been preferred by the respondents against the said order. Since after expiry of stipulated six months time, no final order was communicated to the applicant, he has approached this Tribunal by the instant application.

During the course of hearing, it has been submitted by the counsel for the applicant that during the pendency of the instant application, the state respondents had passed the impugned final order dated 08.03.2022 without taking any leave from the Court or filing any application for extension of time to pass such order. Even in the meantime, he has been granted provisional promotion vide order dated 31.08.2021 to the post of Executive Engineer, P.W.D. and is working in the said post till date. It has been further submitted that in earlier order dated 12.02.2021, this Tribunal had clearly stipulated that in default of passing final order within six months, the entire proceedings should vitiated. Therefore, the counsel for the applicant has prayed for quashing of the impugned final order dated 08.03.2022 as the order has been passed violating the order of this Tribunal dated 12.02.2021.

Though no reply has been filed, however, counsel for the respondent has admitted the said facts. However, he has submitted that the promotion of the applicant is provisional as has been indicated in the said promotion order which was subject to the outcome of the disciplinary proceedings.

Heard the parties and perused the records.

It is noted that the applicant had approached this Tribunal earlier in OA-31 of 2021, which was disposed of vide judgement dated 12.02.2021 with the following observation :-

“Heard the parties and perused the records. It is

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noted that the show cause notice was already issued on 06.08.2014, even second show cause notice was issued on 20.11.2018 against which the applicant has submitted his reply on 07.01.2019. Therefore, I direct the Respondent No. 2 to conclude the departmental proceedings within a period of six months and to take a final decision by way of passing a speaking and reasoned order as per rules and communicate the same within six months from the date of receipt of the order. In default, the proceedings should be vitiated. Accordingly, OA is disposed of.”

Even thereafter admittedly no final order has been passed within six months of time and the respondents had not prayed for any extension of time to pass such final order. Though reply to the second show cause notice was already completed on 17.01.2019 and only the final order has to be passed by the disciplinary authority, even they have not preferred any writ petition against the judgement dated 12.02.2021. However, even long after expiry of time, the Disciplinary Authority has passed the impugned final order dated 08.03.2022. It is further noted that the respondents had granted promotion to the applicant to the post of Executive Engineer from the post of Assistant Engineer with a rider that the said promotion is provisional and subject to the outcome of the ongoing disciplinary proceeding though they were fully aware that the six months time have already expired before the date of promotion.

In view of the above, I am of the opinion that the respondents are not at all interested to impose any punishment upon the applicant which transpires from their action/inaction even after granting

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opportunity of six months time to complete the disciplinary proceeding. Therefore, I quash and set aside the impugned punishment order dated 08.03.2022 as well as the entire disciplinary proceedings initiated against the applicant vide Memo dated 06.08.2014. Accordingly, OA is disposed of with the above observation and direction with no order as to costs.

sc

URMITA DATTA (SEN)  
MEMBER (J)