

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 73 of 2024.

AYAN GHOSH - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

03  
16.5.2024

For the Applicant	: Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.
For the State Respondents	: Mr. S.N. Ray, Learned Advocate.
For the Public Service Commission West Bengal	: Mr. S. Bhattacharjee, Learned Advocate.

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt. – II) dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

By an order dated 25.07.2023 in OA 477 of 2023, the Tribunal had directed the respondent authority to conclude the disciplinary proceedings against the applicant within the next six months. In compliance to the Tribunal's direction, for concluding the proceedings within the next six months, the respondent authority referred the matter to the West Bengal Public Service Commission for its opinion. Such an opinion of the Commission was required since the applicant belonged to a Group-A service. The Public Service Commission after having examined the matter communicated its opinion to the respondent authority by a reference dated 28.03.2024. Having received the opinion of the Commission and after consideration of the matter, the respondent authority passed the final order on 15.04.2024. By this final order, a punishment of three stages of his current pay-band was lowered for the next three years under Rule 8(iv) of West Bengal Services (Classification, Control and Appeal) Rules, 1971.

Mr. M.N. Roy, learned counsel for the applicant argues that by passing the final order on 15.04.2024, the respondent authority has failed to comply with the direction of this Tribunal in concluding the disciplinary proceedings within the six

ORDER SHEET

Form No.

AYAN GHOSH.

---

Case No. OA 73 of 2024.

-Vs-

THE STATE OF WEST BENGAL & ORS.

---

months period. Mr. Roy points out that the Tribunal's order was passed on 25.07.2023 and the six months period given ended on 25.01.2024, whereas such final order concluding the proceedings seems to have been passed on 15.04.2024, thus having delayed it by around three months. Mr. Roy further submits that surprisingly such final order supposed to have been passed by the respondent authority on 15.04.2024 is yet to be communicated to the applicant. Mr. Roy in support of his prayer in this application relies on a judgement of the Hon'ble Supreme Court in the case of "Neelima Srivastava v. State of U.P." reported in (2021) 17 SCC 693.

Mr. S.N. Ray, learned counsel for the State respondents though agrees with this three months, but draws attention on a judgement of the Hon'ble Supreme Court in 420 (2015) 16 SCC, the relevant para of the judgement being :

*"Where it is not possible for the employer to conclude due to certain unavoidable causes arising in the proceedings within the time-frame then efforts should be made to conclude within the reasonably extended period depending upon the cause and the nature of inquiry but not more than a year."*

Having pointed out the above para, Mr. S.N.Ray argues that the respondent authority though could not conclude the proceedings within the six months from the date of order of the Tribunal, however, it was finally concluded by passing the final order on 15.04.2024 in which a delay of three months may have occurred. Referring to the same para of the Hon'ble Supreme Court's order, Mr. Ray also argues that the Hon'ble Court had also ordered that such extension should not be more than a year. In this case, the entire disciplinary proceedings was concluded and the final order passed within one year from the date of the Tribunal's order.

The primary issue in this application is whether the directions of this Tribunal in OA 477 of 2023 passed on 25.7.2023 was complied or not? By this order, the Tribunal had directed the respondent no. 2 – the Additional Chief Secretary, Department of Forest to conclude the disciplinary proceedings against the applicant within six months. The Tribunal had also impressed upon the respondents that in the event if such proceeding is not concluded within the period, the Tribunal may

**ORDER SHEET**

Form No.

AYAN GHOSH.

---

Case No. OA 73 of 2024.

-Vs-

THE STATE OF WEST BENGAL & ORS.

---

consider the entire departmental proceedings as null and void. In terms of such direction of the Tribunal, the respondent authority approached the Public Service Commission on 28.12.2023 for its opinion followed by a reminder on 11.3.2024. On 28.3.2024, the Commission responded to the Forest Department and communicated its views and recommendation. Soon thereafter on 15.4.2024, the Disciplinary authority passed the final order imposing a punishment upon the charged officer, Ayan Ghosh.

Now the question to be looked into is whether this final order passed on 15<sup>th</sup> April, 2024 had complied or failed to come up with the direction of the Tribunal in OA 477 of 2023. As stated above, the Tribunal had directed the proceedings to be concluded within six months period. By passing the final order on 15.4.2024 instead of six months, the respondent authority took eight months and 21 days, thus delayed by only two months twenty-one days. The Tribunal is aware of the inevitable procedural delay in consulting the Public Service Commission and the Vigilance Commission. Therefore, a delay of mere two months and twenty-one days is not such a delay for which the entire departmental proceeding should be struck down. It also notes that soon after the direction of the Tribunal, the respondent authority appears to have hastened the process of concluding the disciplinary proceedings. Further the Tribunal does not find any wilful delay or any malice in delaying the proceedings just to victimise the applicant. As was quoted by the learned counsel in the foregoing paragraph, the Hon'ble Supreme Court in 420 (2015) 16 SCC had quoted that the reasonable extended delay should not be more than a year.

Therefore, in view of the above observation, the Tribunal is fully satisfied with the steps taken by the Respondent to conclude the proceedings and therefore, not inclined to consider the prayer of the applicant for setting aside the entire disciplinary proceedings against him. Therefore, finding no merit in the prayer of this application, it is disposed of without passing any orders.

Skg.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

**ORDER SHEET**

Form No.

AYAN GHOSH.

---

Case No. OA 73 of 2024.

**-Vs-**

THE STATE OF WEST BENGAL & ORS.

---

WEST BENGAL ADMINISTRATIVE TRIBUNAL