

IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

21.07.2026
S/L 50
Court No. 4
(Naba)

W.P.S.T. 233 of 2025

Ayan Ghosh

Vs.

The State of West Bengal & Ors.

Mr. Sarosij Dasgupta,
Mr. Bikramjit Mandal

...the Petitioner

Ms. Chandreyi Alam, Id. A.G.P.,
Ms. Runu Mukherjee

...the State

Ms. Shraboni Sarkar,
Ms. Umme Habiba Khatun

...the P.S.C., W.B.

1. Heard the learned advocate for the writ petitioner and the learned A.G.P. appearing on behalf of the State. The Commission is also represented.
2. The writ petitioner was the applicant before the West Bengal Administrative Tribunal ('Tribunal' for short) in O.A. No. 73 of 2024, filed seeking the relief of quashing of the entire disciplinary proceeding initiated against the writ petitioner vide charge-memo dated 26.04.2019. The substance of the allegations in the charge-memo was conduct of an auction by the petitioner while working as a Divisional Forest Officer and Ex-

Officio Divisional Manager of the West Bengal Forest Development Corporation Limited (hereinafter referred to as 'the Corporation'). The charge alleged irregularity in conduct of the auction below the fixed reserved price with the *mala fide* intention on part of the writ petitioner/applicant.

3. While the proceeding was pending before the Tribunal, the order of punishment was passed by the disciplinary authority on 15.04.2024, whereby and whereunder the petitioner was awarded the punishment in the following terms :

“the pay of the Charged Officer, Shri Ayan Ghosh be reduced to 03(three) stages lower in the current pay band for a period of 03(three) years under Rule 8(iv) of West Bengal Services (Classification, Control & Appeal) Rules, 1971 and during the period of such reduction, he will not earn any increment of pay, and the reduction of pay will not have the postponing effect; and (ii) A total amount of Rs. 82,872/- be recovered from Shri Ayan Ghosh under Rule 8(iii) of West Bengal Services (Classification, Control & Appeal) Rules, 1971 in 8(eight) number of instalments;”

4. In view of the punishment passed during pendency of the Original Application, the Tribunal has disposed of the Original Application without passing any orders on the petitioner's claim raised

in the O.A. The order of the Tribunal dated 16.05.2024, passed in O.A. No. 73 of 2024 is the subject matter of the present writ proceeding.

5. Passing of the impugned order by the Tribunal and its sustainability cannot be considered in isolation. The same is required to be considered keeping in background the facts and circumstances under which the O.A. was filed.
6. Thus, it is pertinent to take note of filing of an earlier Original Application bearing O.A. No.477 of 2023, wherein the writ petitioner being aggrieved by the inordinate delay in conclusion of the self-same departmental proceeding invoked the Tribunal's jurisdiction. The Tribunal was pleased to direct :

“In the event, if this disciplinary proceeding is not concluded within six months from the date of communication of this order, the Tribunal will consider the entire disciplinary proceeding as vitiated.

Accordingly, the application is disposed of.”

7. In view of such order being passed by the Tribunal the proceeding arising out of the charge-memo dated 26.04.2019, was required to be concluded by 24.01.2024. The admitted position is that the proceeding was concluded thereafter i.e. on 15.04.2024. In between passing of the order by

the Tribunal and conclusion of the proceedings by order of the disciplinary authority, the second O.A. No. 73 of 2024 was filed, order of which is the subject matter of the present proceeding.

8. The primary issue, therefore, arises whether a second O.A. was required to be filed by the petitioner having regard to the order passed in O.A. No. 477 of 2023. The order passed in O.A. No. 477 of 2023 leaves no ambiguity as to the fate of the departmental proceedings in case of failure on the part of the disciplinary authority to conclude the proceeding within the six months' period, specified therein. The order had a clear mandate of the proceedings being vitiated in case of failure to pass an order within the timeframe.
9. Be that as it may, the fact remains that the petitioner filed a second O.A. seeking the relief of quashing of the departmental proceedings, and it is during pendency of this proceeding that the order of punishment was passed. The order of punishment was passed by the disciplinary authority beyond the time fixed for passing of such an order in terms of the Tribunal's earlier order, without seeking any extension of the time granted by the Tribunal in the earlier order dated 25.07.2023 in O.A. No. 477 of 2023.

10. Therefore, whether the disciplinary authority's order of punishment passed beyond the time limit fixed by the Tribunal, and without seeking an extension of the time for passing of such an order is sustainable or not was required to be considered by the Tribunal.
11. The learned advocate for the writ petitioner has drawn attention of the Court towards a judgement dated 18.05.2025, passed by this Court in the case of **State of West Bengal & Ors. Versus Biswanath Das** in **W.P.S.T. No. 122 of 2023**. Copy of the judgment was passed on to the Court after service upon the learned A.G.P. Relying upon decision of the Hon'ble Supreme Court of India in the case of **State of Uttar Pradesh through Principal Secretary, Department of Panchayati Raj, Lucknow Versus Ram Prakash Singh** reported in **2025 SCC OnLine SC 891**, this Court dealing with the same issue, whether an order could be passed after lapse of the time fixed; and without seeking an extension of the time fixed for passing of an order held :

“33. The apex court also held that if the order fixing a time for conclusion of proceeding is coupled with a rider that, in default the proceeding would stand lapsed, then the disciplinary authority in such a case would cease to have jurisdiction to proceed further. Unless of course the

application is made for recall of the default clause on genuine grounds, and the recall is allowed. Having laid down the law in this regard, the Apex court proceeded to hold:

“63. We also hold that continuation of disciplinary proceedings beyond the time stipulated by a tribunal/court could invite interdiction if no bona fide attempt is shown to have been made to seek an extension of time. However, much would depend on the facts of each case and it may not be possible to lay down a common formula applicable to each case. In an exceptional case, the tribunal/court would have the discretion to overlook the laxity and make such direction as it deems fit in the circumstances.

64. The answer to the fourth issue, in view of our discussion, has to be in favour of the respondent and against the appellant. Without an extension of time, no order of punishment could have been validly made and the grievance of the respondent in this behalf is absolutely legitimate.”

34. In the present case a plea was raised that an extension of time could not be filed due to the intervening circumstances arising out of national lockdown imposed on account of COVID 19 pandemic. An attempt is made to justify the delay in approaching the Tribunal by placing reliance on the decision of the Special Bench of this Court in WPA 5323 of 2020. The reliance placed by the Special Bench

judgment is thoroughly misplaced in our opinion since the judgment is of 23.02.2022. The time stipulated by the Tribunal had lapsed long prior thereto in the last week of June 2021. The authorities therefore cannot derived any substance from the Special Bench Order dated 23.02.2022 passed in WPA 5323 of 2020.”

12. Upon consideration of the legal position, we find that extension of the time could have been prayed for by the respondents, but within the time limit fixed by the Tribunal in O.A. No. 477 of 2023. The judgement contemplates making of an application even thereafter, but in “exceptional” circumstances.
13. In the present case, no application whatsoever was made for extension of the time (6 months) for concluding the departmental proceeding. The Tribunal, however, accepted the delayed punishment order on the premise that the delay was only two months twenty-one days and that the delay was despite due diligence on the part of the authorities.
14. Having regard to the judgement of the Co-ordinate Bench relying upon decision of the Apex Court, it is clear that the disciplinary authority ceased to have jurisdiction to proceed further with the matter after lapse of the timeframe specified in the order passed in O.A. No. 477 of 2023. There being

no extension whatsoever, there was no occasion for the Tribunal to accept the order of punishment recorded after lapse of the timeframe specified in O.A. No. 477 of 2023.

15. We, therefore, hold that the proceeding stood vitiated/lapsed in terms of the order passed in O.A. No. 477 of 2023, on account of failure by the disciplinary authority to conclude the proceeding within the time specified therein.
16. In **Ram Prakash Singh** (*supra*) and in the case of **Biswanath Das** (*supra*) the law has already been stated to the effect that if the Tribunal/Court stipulates a fixed time for conclusion of an enquiry or proceedings for disciplinary action and the same ought to be concluded with a rider that in default the proceeding will stand lapsed. In **Ram Prakash Singh** (*supra*) it was held “62.... *the disciplinary authority in such a case would cease to have the jurisdiction to proceed further unless, of course, citing genuine grounds, a recall of such default clause is sought and obtained to proceed further in accordance with law...*”. In the present case, as noted above the order of the Tribunal contemplates that in case of failure to conclude the proceeding within six months from the date of communication of the order passed by the Tribunal, the Tribunal would consider the

entire disciplinary proceeding as vitiated. The expression vitiated is defined in Black's Law Dictionary, 11th Edition "*1. To impair; to cause to have no force or effect 2. To make void or voidable; to invalidate either completely or in part...*" Therefore, there can be no gain saying a fact that the order of the Tribunal passed in O.A. No. 477 of 2023 contemplated a lapse of the proceeding if not concluded within the six months' time frame specified in the order. In absence of any extension of the time frame, we hold that order of punishment passed by the disciplinary authority was without jurisdiction. Order of the disciplinary authority dated 15.04.2024, is unsustainable in view of the legal position considered hereinabove and is hereby quashed.

17. The petitioner would be entitled to monetary benefits, as a result of quashing of the punishment order.
18. The order of the Tribunal is set aside. The Writ Petition is allowed.
19. There will be no order as to costs.
20. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)