

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 11305 of 2021

Aurabinda Sarkar
Vs.
Union of India & Ors.

Mr. Syed Nurul Arefin,
Ms. Saswati Chatterjee.
... for the petitioner.

Mr. Samarjit Roy Chowdhury,
Mr. Madhu Jana.
... for the UOI.

As observed in the order dated 22nd November, 2021, when the matter was adjourned to allow respective advocates to take instructions, two issues fall for consideration

- i) whether this Court has the jurisdiction to receive, try and determine the writ petition,
- ii) whether departmental proceedings can be initiated against the petitioner after expiry of more than 3 years.

Considering the provisions of Section 3q(iv) of the Administrative Tribunal Act, 1985 (hereinafter referred to as the 1985 Act), I find that the grievances ventilated by the petitioner, a retired Income Tax Officer in this writ petition in connection with a disciplinary matter initiated against him after 3 years from his superannuation is required to be canvassed before the

competent Administrative Tribunal constituted under Section 4 of the said Act. Since I find that this Court lacks jurisdiction in receiving, trying and determining the issues involving in the writ petition, I am not inclined to go into the second issue.

The writ petition is, therefor, devoid of merits and is dismissed as withdrawn with liberty to the petitioner to approach the jurisdictional Administrative Tribunal on the selfsame cause seeking the reliefs claimed herein. It is made clear, in the event, the petitioner approaches the jurisdictional Administrative Tribunal within a period of two weeks from date, the time spent between 9th July, 2021 being the date of filing of this writ petition and till the date of the instant order shall be treated to have been spent in proceeding before a Court without jurisdiction. Nothing further remains to be adjudicated in this writ petition.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)