

14.09.2022
DL-20
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19990 of 2022

Sri Udayan Mandal
Vs.
The State of West Bengal & Ors.

Mr. B. B. Sarkar,
Ms. Iti Dutta,
Ms. Priti Jain,
Mr. Pratit Sarkar

....for the petitioner.

Mr. Pinaki Dhole,
Mr. Pinaki Bhattacharya

....for the State.

Mr. Satyajit Talukdar,
Mr. Abhishek Sarkar

....KMDA.

Affidavit of service filed in Court today be retained with the records.

The writ petitioner has challenged the memorandum of charges dated November 9, 2020 and the order dated November 9, 2020 in the writ petition. It has been claimed that despite the lapse of 60 days as stipulated in the order dated November 9, 2020, the Inquiring Authority has not submitted the report along with evidence, statements within 60 days from the date of issuance of the memorandum.

Mr. Sarkar, learned counsel, appearing for the petitioner states that in such a circumstance, the enquiry is deemed to be dropped by the employer, Kolkata Metropolitan Development Authority (in short 'KMDA').

The writ petitioner has filed a written statement of defence on November 18, 2020 against the memorandum of charges issued against him. Furthermore, the writ petitioner has fairly made a representation on August 24, 2021 for consideration of the alleged charges as framed against him since no action had been taken for the past 9 months. Since the disciplinary proceedings are pending against the petitioner, his right to be considered for promotion is also being prejudiced unnecessarily. The writ petitioner has also made a representation on August 4, 2022 for sanction and approval of his promotion to higher post and for dropping of the departmental proceedings as pending against him. Admittedly, no reply was given by the employer/KMDA to his representations dated August 24, 2021 and dated August 4, 2022.

Mr. Talukdar, learned counsel, appearing on behalf of the respondent nos. 2 to 4/KMDA submits that steps were being taken to conclude the departmental proceedings.

Mr. Dhole, learned counsel, appears for the State of West Bengal.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that there is no point in unnecessarily keeping

the disciplinary proceedings pending indefinitely prejudicing the right of the writ petitioner to be considered for promotion.

The disciplinary proceedings are directed to be concluded within 4 weeks from date, failing which the charges as framed by the memorandum dated November 9, 2020 will be deemed to have been dropped as against the writ petitioner.

The respondent authority, being the Chief Executive officer/respondent no.2 herein, is directed to consider the representation of the petitioner dated August 4, 2022 for sanction of his promotion within 6 weeks from date and pass a reasoned order upon giving a chance of hearing to the writ petitioner. Such reasoned order shall be passed keeping in view the fact that the memorandum of charges clearly directed the Inquiry Officer to submit a report along with evidences, statements within 60 days from the issuance of the order which has not been admittedly done in this case.

With the direction aforesaid, this writ petition, being **WPA 19990 of 2022**, is **disposed of**.

Since no affidavits have been invited in this writ petition, the allegations contained in the writ petition are deemed to have not been admitted.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)