

Dd 09 05.09.2023

WP.ST 23 of 2023

***The State of West Bengal & Anr.
Vs.
Sri Arunavo Gupta & Anr.***

*Mr. Tapan Kumar Mukherjee, AGP
Mr. Pinaki Dhole,
Mr. Somnath Naskar, Advocates
... ... For the Petitioners/State*

*Mr. Ranajit Chatterjee,
Mr. Aniruddha Mitra, Advocates
... ... For the Private respondent*

The writ petition is directed against an order dated April 21, 2022 passed in OA 739 of 2021 by the West Bengal Administrative Tribunal.

By the impugned order the Tribunal found that, the disciplinary proceeding as against the private respondent was not concluded within the time period specified by the Tribunal in its earlier order dated February 12, 2021 passed in OA 31 of 2021.

The Tribunal, therefore, proceeded to quash and set aside the order of punishment dated March 8, 2022 meted out as against the private respondent in the disciplinary proceeding.

Learned senior advocate appearing for the State submits that, the charges as against the private respondent are serious. Such charges stood established in the disciplinary proceeding. Moreover, the disciplinary proceeding could not be concluded within

the time specified by the order dated February 12, 2021 passed in OA 31 of 2021 in view of the fact that COVID intervened. He relies upon an order of the Hon'ble Supreme Court passed in *Suo Motu Writ Petition (Civil) No. 3 of 2020* dated March 8, 2021. He submits that, the period of limitation during March 15, 2020 till March 14, 2021 stood suspended. Moreover, the State approached the Tribunal for extension of time to conclude the proceeding which was granted. However, the departmental proceeding could not be concluded due to the non-cooperation of other authorities, viz., the Public Service Commission.

Private respondent is respondent.

Learned advocate for the private respondent submits that, at best, the time to conclude the departmental proceeding, stood extended till December 14, 2021. In any event, the State never applied by way of a written application before the Tribunal for extension of time. He submits that, the Public Service Commission and the Public Works Directorate were functioning during the COVID period and, therefore, the plea that such authorities were not cooperating with the departmental proceeding was misplaced.

We find from the records made available to Court that, a departmental proceeding was initiated as against the private respondent. The private respondent approached the Tribunal in respect of such departmental proceeding being OA 31 of 2021. OA 31 of 2021 was disposed of by an order dated February 12, 2021 directing conclusion of the departmental proceeding within six months.

Subsequently, the respondent filed another original application being OA 739 of 2021 for quashing

the departmental proceedings since the same was not concluded within six months from February 12, 2021 as directed in OA 31 of 2021. In such OA 739 of 2021, State sought extension of time to conclude the departmental proceeding. The prayer to such effect was recorded on November 18, 2021. Such prayer was allowed. The matter was directed to be listed on December 14, 2021.

On perusal of order dated December 14, 2021, we find that, nothing was recorded with regard to extension of time to conclude the departmental proceeding. On January 6, 2022, a prayer was made on behalf of the State for conclusion of the departmental proceeding which was recorded. On January 11, 2022, no prayer was made by the State for extension of time to conclude the departmental proceeding, although being represented.

The final order in the departmental proceeding was issued on March 8, 2022.

Even though, the Tribunal did not extend the time to conclude the departmental proceeding, we assume, for the sake of argument, that the prayer contained in the order dated January 6, 2022 by the Tribunal in OA 739 of 2021 is allowance of the time to conclude the departmental proceeding, then also, the departmental proceeding was not concluded within the period specified.

The departmental proceeding was required to be concluded within six months from February 12, 2021. It was not concluded within such specified time.

The order of the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No. 3 of 2020* dated March 8, 2021 does not assist the State in this matter. The

departmental proceeding was concluded beyond six months from March 15, 2021.

The Tribunal found that since the departmental proceeding was not concluded within the time specified in the earlier proceeding, it proceeded to quash the order of punishment and the departmental proceeding.

In the facts of the present case, we do not find any ground to interfere with the impugned order of the Tribunal.

WP.ST 23 of 2023 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)