
(2017) 07 CAL CK 0071
In the Calcutta High Court
Case No : 1670 (W) of 2017

Prabir Kumar Mukherjee

APPELLANT

Vs

Kolkata Municipal Development Authority and Others.

RESPONDENT

Date of Decision : 28-07-2017

Acts Referred:

[Kolkata Metropolitan Development Authority Service Regulations, 1975](#) , Regulation 76(IV)

Citation : (2017) 07 CAL CK 0071

Hon'ble Judges : Sambuddha Chakrabarti

Bench : SINGLE BENCH

Advocate : Kashi Kanta Maitra, ?Arup Kumar Lahiri, ?Bandhu Brata Bhula, ?P. S. Basu, ?S. Talukdar

Final Decision : Allowed

Judgement

1. The case of the petitioner, inter alia, is that on April 6, 1988, he was appointed as an Assistant Engineer in the Kolkata Municipal Development Authority (KMDA, for short). On December 13, 2005, he was promoted to the post of Executive Engineer and was associated with the construction of 30 million gallon per day at Kalyani Water Treatment Plant. He was also discharging other duties attached to his office. With effect from July 27, 2009, he was again promoted to the post of Superintending Engineer and subsequently, with effect from December 31, 2012, he was promoted to the post of Additional Chief Engineer. From May 1, 2014, he has been acting as Chief Engineer-in-charge, Water

Supply Sector. From August 27, 2014, he has also been functioning as the Chief Engineer-in-charge, Material Sector. On June 3, 2015, the Chief Executive Officer, KMDA i.e., the respondent no. 2 issued a charge-sheet against the petitioner alleging that while serving as the Superintending Engineer from July 27, 2009 to December 30, 2012, he invited an online tender for certain purposes near Sodepur Railway Station under Panihati Municipality at an arbitrarily high rate of an estimated amount of Rs. 2,81,76,400/- and issued the work order to M/s. Protomac Construction treating the organization as the lowest bidder with tender amount of Rs. 2,79,70,421/-. That was detected by the Chief Engineer, Water Supply and a revised notice inviting tender with an estimated amount of Rs. 1.75 crores was invited in cancellation of the earlier one.

2. The petitioner in his reply denied the charges against him. He requested the respondent authority to supply copies of all the documents as mentioned in Annexure - A-II to the said charge-sheet as well as some other documents and records. It has been the allegation of the petitioner that the charges levelled against him are not on the face of them maintainable as he has no power or authority to sanction or accept any tender of a value exceeding rupees two crores. The said tender was accepted and approved by the Works and Tender Committee which consisted of four senior IAS Officers, all the DGOs and all the Chief Engineers of KMDA and KMW. The petitioner states that four IAS officers were i) Finance Secretary to the Government of West Bengal, ii) the Principal Secretary, Urban Development Department, Government of West Bengal, iii) the Principal Secretary, Municipal Affairs Department, and iv) Chief Executive Officer, KMDA. His notes, suggestions etc., were never placed by the petitioner before the

members of the said Committee. He has no authority in accepting or rejecting any tender exceeding rupees two crores in value. As the IAS officers are not technical persons members of the engineering cadre had been made permanent invitees and the decision was taken by the Board for deliberation. The petitioner was not a member of the said committee.

3. An enquiry proceeding was initiated and the petitioner appeared before the inquiring authority on August 17, 2015 and pleaded not guilty to the charges framed against him. The inquiring authority had directed the petitioner to submit the written submission after obtaining the copy of the documents detailed in Annexure III to the charge-sheet from the disciplinary authority. The inquiring authority requested the disciplinary authority to supply to him the documents, the petitioner also requested the inquiry authority to be represented by an advocate.

4. On the next date of hearing i.e., on December 28, 2015, the inquiring authority informed the petitioner that the Disciplinary authority had intimated him that the petitioner was not entitled to be represented by a lawyer. The petitioner found that several documents mentioned in Annexure III to the charge-sheet were yet to be received by him on the said date. The inquiring authority recorded that the presenting officer expressed his inability to supply to the copies of those documents to the petitioner and the disciplinary authority had not forwarded the copies of the said documents to the Inquiring authority.

5. It is a grievance of the petitioner that the disciplinary authority never informed him that his prayer for engagement of an advocate had been rejected and he learnt it from the inquiring authority at the second sitting of the enquiry that the disciplinary authority had rejected his prayer.

6. The petitioner also states that the presenting officer Sri Abhijit Saha was an Inspector of Police, State Vigilance Commission and he is a trained police personnel and also trained in the art of prosecution. On the contrary, the petitioner is an engineer by profession and was not conversant with legal matters. The petitioner suspects that the disciplinary proceeding against him was initiated at the instance of some designing persons to deprive him of his right of lawful promotion to the post of Chief Engineer on the ground that a disciplinary proceeding was pending against him. He also has alleged that the respondent authorities are not willing to conclude the proceeding within a reasonable time and wish to prolong and drag it so that the petitioner might be denied his legitimate promotion.

7. The inquiring authority in the order dated January 28, 2016, had recorded that the enquiry would not proceed further if the documents wanted by the petitioner were not supplied to him. On two successive dates of hearing, thereafter, the petitioner was intimated by the inquiring authority that documents were not supplied to him. Consequently, on February 29, 2016, the inquiring authority observed that no further date would be fixed and the petitioner would intimate the inquiring authority as soon as he would receive the documents and thereafter the next date of hearing would be fixed.

8. The petitioner earlier filed a writ petition, inter alia, praying for a direction upon the respondent to rescind or revoke the disciplinary proceedings drawn against him and to drop the departmental proceeding. A learned single Judge of this Court by an order dated April 28, 2016, disposed of the writ petition observing that disciplinary proceedings should not be permitted to continue endlessly. A period of more than 10 months had elapsed

from the receipt of the charge-sheet without any progress having been made against the disciplinary action. The respondents were directed to ensure that the documents relevant for the enquiry were furnished to the petitioner within three weeks from the date whereupon the inquiry officer would conclude the enquiry within six weeks therefrom without any adjournment to the parties, except on unavoidable grounds. The disciplinary action should be concluded within three months from the date of the order.

9. After this, the petitioner alleges the inquiring authority concluded the enquiry in a haste without observing the rules of natural justice. In spite of direction by this Court for concluding the disciplinary action within three months from the date of order of the High Court the disciplinary authority did not pass any final order in the proceeding. A learned Advocate for the petitioner requested the respondent no. 2 to pass a final order to the effect that the disciplinary proceeding initiated against the petitioner had been dropped or abandoned. By another letter dated August 16, 2016, the learned advocate for the petitioner again requested the respondent to treat the purported disciplinary proceeding as dropped.

10. On September 6, 2016, the respondent no. 2 who is the disciplinary authority in the present case issued a show-cause notice to the petitioner from which it is evident that the disciplinary authority had agreed with the findings of the inquiring authority and proposes to impose a major penalty of reducing the pay of the petitioner by three stages lower in the current pay band for a period of three years under Regulation 76 (IV) of the KMDA Service Regulations, 1975. During the period of penalty, he will not earn any increment of pay. On the expiry of such period, the reduction will have the effect of postponing future promotion of his

pay. The petitioner was asked to give his reply within 15 days from the date of receipt of the show-cause notice.

11. The petitioner submitted his reply on September 19, 2016, contending that the entire disciplinary proceeding was initiated without jurisdiction. That the findings of the inquiring authority were perverse and not based on any evidence. The petitioner was not given any reasonable opportunity of defence. He alleged that in his reply to the show-cause notice he also contended that after the expiry of the period of three months, as directed by this Court, the respondents had no authority or jurisdiction to proceed with the disciplinary action. They have not considered the promotion of the petitioner to the post of Chief Engineer which has been lying vacant. Previously two juniors were promoted from the rank of Additional Chief Engineer and they have also retired. But he continues to be ignored on the plea of pendency of the disciplinary proceeding. As a matter of fact, apprehending that the petitioner might not be considered for the promotion, his learned Advocate had addressed letters to the respondent no. 2 in November and December, 2015, requesting him to ensure that the case of promotion of the petitioner to the post of Chief Engineer might be considered in accordance with law. The petitioner is the senior most Additional Chief Engineer and has been discharging the duty of Chief Engineer-in-charge with effect from May 1, 2014.

12. The petitioner alleges that the respondents got sufficient time to conclude the disciplinary proceeding but they have not done so and have not passed any final order. But the disciplinary authority kept the proceeding pending and in the process the respondents have been continuing with promoting junior engineers to next higher posts. The petitioner considers the series of steps taken by the respondents to be violative of the fundamental rights under the

Constitution.

13. Therefore, by this writ petition, the petitioner has prayed for a writ in the nature of mandamus commanding the respondents to promote the petitioner to the post of Chief Engineer and to treat the disciplinary proceeding against the petitioner as dropped or abandoned and to act in accordance with law. He has also prayed for a declaration that the petitioner is entitled to be promoted to the post of Chief Engineer with effect from September 2015.

14. On behalf of the respondents, the Chief Executive Officer of KMDA, i.e., the respondent no. 2 has filed an affidavit wherein it has been said that on receipt of certain complaints against the petitioner, the Anti-Corruption Bureau of the State Vigilance Commission made necessary investigation into the matter and on perusal of the report of investigation and related documents including the statement of the concerned employee, the Vigilance Commission was of the view that there are materials for proceeding against him, departmentally under the West Bengal Service (Classification Control and Appeal) Rules, 1971. After preparing the draft charges they sent the same to the respondent no. 2 by a Memo dated May 13, 2015.

15. It has been alleged against the petitioner that while acting as the Superintending Engineer, East Circle, he had invited an online tender for designing supply and water supply carrier pipes near Sodepur railway station at an arbitrarily high rate and had issued work order in favour of M/s. Protomac Construction in a very lackadaisical manner which reflected lack of devotion to duties and displayed gross misconduct.

16. Upon compliance of the required formalities, the disciplinary proceeding was initiated against the petitioner and an enquiry was started under Regulation 82 of the KMDA Service Regulation,

1975. The disciplinary authority appointed Sri Pranab Kumar Paul, Deputy Commissioner of Departmental Enquiry, State Vigilance Commission, Government of West Bengal as an inquiring authority.

17. In terms of the direction given by this Court in the earlier writ petition the disciplinary proceeding was required to be concluded by July 27, 2016. The inquiring authority being the Deputy Commissioner for departmental enquiries upon conclusion of the enquiry submitted his report and findings to the State Vigilance Commission which was forwarded by the Joint Secretary of the State Commission to the disciplinary authority by a Memo, dated July 14, 2016.

18. The respondent no.2 further states that the report submitted by the inquiring authority was quite voluminous which had taken a few weeks for the disciplinary authority to go through the same and to consider the findings on merit. The disciplinary authority was satisfied that the inquiring authority had come to the conclusion in his findings upon his judicious analysis and documents. He having agreed with the findings with the inquiring authority and held the delinquent officer to be guilty of the charges and deserved a harsh punishment considering the serious nature of charges.

19. Therefore, a second show-cause notice to the petitioner was issued proposing to impose a major punishment of reduction of pay by three stages lower in the current pay band for a period of three years. The petitioner was given an opportunity to defend himself by showing cause within 15 days of receipt of the said notice as to why the punishment proposed would not be imposed on him for the charges established against him in the enquiry. The reply of the petitioner which was received on September 19, 2016,

not only contained voluminous documents but also involved certain technical specifications and financial implications. For dealing with the said reply in a better manner, the disciplinary authority sent the same to the inquiring authority by a Memo, dated November 3, 2016. The same was sent to the Joint Secretary, State Vigilance Commission for taking necessary action from their end. Since no response to the memo was received from the Joint Secretary till January 30, 2017, a reminder was issued for doing the needful at the earliest as the timeframe fixed by the Court had already expired.

20. The Joint Secretary, State Vigilance Commission by his Memo dated February 10, 2017, informed the KMDA authorities that all those documents had already been returned to the KMDA and that the disciplinary authority was solely authorized and competent to determine the penalty to be imposed upon the charged officer and, therefore, requested him to take necessary action on the strength of that. After receiving this communication from the State Vigilance Commission, the respondent authorities took some time to examine the explanation of the petitioner as also the documents annexed to his reply. Upon consideration thereof, the disciplinary authority agreed with the findings of the inquiring authority and found him guilty of the charges of misconduct having been duly established against him. The disciplinary authority dared not to pass the final order due to the pendency of the present petition where the petitioner questioned the continuance of the proceeding itself. However, after it has been clarified by this Court in its order, dated April 6, 2017, that pendency of the writ petition shall not debar the respondents to pass by any order or final order in considering the case of the petitioner without prejudice to the rights and contentions of the

parties, the disciplinary authority passed the final order on April 11, 2017, imposing the punishment as proposed by him in the show-cause notice.

21. The respondent no.2 mentions these explanations in justification for not being able to complete the disciplinary proceeding within the time fixed by this Court. The delay in completing the disciplinary proceeding is neither intentional nor deliberate. The respondent no.2 tendered unqualified apology before the Court.

22. I have heard Mr. Maitra, the learned Senior Counsel for the petitioner and Mr. Bose, the learned advocate for the respondents and have given my anxious consideration to the respective cases.

23. Although the writ petition contains a host of allegations on merit against the disciplinary proceeding initiated against the petitioner and the conduct of it, relief sought by the petitioner is not directed against the report of the enquiry or the order of the disciplinary authority on merit. The petitioner's prayer in respect of the disciplinary proceeding is confined to treating the same as dropped or closed or abandoned.

24. It is not understood why the Chief Executive Officer has filed an affidavit merely explaining the delay in concluding the departmental proceeding. On April 6, 2017, this Court directed the respondent no.2 to file a report in the form of an affidavit in response to the allegation made in the writ petition. It was further directed that the report most specifically disclose the reasons for not being able to complete the proceeding within the timeframe as fixed by this Court. It did not mean that the affidavit should be confined only to disclosure of reasons for the delay. The respondents are, however, certainly entitled not to respond to the material allegations in a petition in spite of being given an

opportunity to controvert the same. But in that case the material allegations in the writ petition go unchallenged.

25. If one wants to examine the merits of the allegations in the writ petition, there are plenty of them. If one is required to deal with the grievance of the petitioner that documents were not supplied to him in time, or he was not allowed by the respondents to have the assistance of an Advocate, etc. the points certainly lean very heavily in favour of the petitioner.

26. Even if the KMDA Service Regulations do not permit the representation of a delinquent officer by a lawyer unless there is any specific bar to the contrary the authorities might have allowed to him to be so represented as the presenting officer, the petitioner was right in taking the point, was a senior police officer who was more acquainted with the intricacies of both the prosecution as well as the defence. It matters little that he was not a lawyer, for he had the requisite training and expertise in this particular field, both in the conduct of an enquiry as well as in the art of examination and cross-examination of witnesses.

27. That there was an obvious dilly-dallying in providing the copies of the necessary documents to the petitioner cannot be doubted and it will be evident from the minutes of the proceeding themselves. Ultimately this Court had directed the respondents to furnish the relevant documents to the petitioner within three weeks. By that time examination of the prosecution witnesses had been closed. Such a belated supply of records must have rendered the petitioner significantly handicapped in both preparing his statement of defence as well as the cross-examining the prosecution witnesses.

28. But since the petitioner has not prayed for setting aside the enquiry report or the order passed by the disciplinary authority on

merit, I refrain from making any further observation on the merits of the case. The specific prayer is for a direction upon the respondents to treat the disciplinary proceeding as abandoned or withdrawn. Here the petitioner has primarily based his case on the non-compliance of the order passed by this Court about the time schedule fixed by it.

29. I have very closely considered the explanation given by the respondent no. 2 in his affidavit. It does not really inspire much confidence nor it does the explanation appear to be very either convincing or acceptable. The reasons for the delay, as mentioned in the affidavit, leave much to be desired as the conduct of the respondents. On April 28, 2016, this Court had directed the inquiry officer to conclude the enquiry within six weeks from the date of furnishing the relevant documents to the petitioner which was to be done within a period of three weeks from the date of the order. The petitioner has alleged that the Inquiry Officer was a party to that writ petition and he was also served with a copy of the order.

30. It appears that the respondents were crucially aware of the outer limit fixed by this Court for conclusion of the entire disciplinary proceeding. There was undoubtedly some delay on the part of the inquiry officer in submitting his report but the Vigilance Commission by a Memo dated July 14, 2016, had forwarded it to the disciplinary authority. The stand taken in the affidavit of the respondent no. 2 that the disciplinary authority had less than two weeks to complete the disciplinary action may factually correct, but the disciplinary authority cannot take advantage of it as justifying its further delay. In the scheme of the timeframe fixed by this Court, the time given to the disciplinary authority to conclude the entire proceeding was four weeks. If there had been a delay of

two weeks in receiving the copy of the enquiry report and if the disciplinary authority could conclude the disciplinary action within a further period of two weeks beyond the timeframe fixed by this Court, the petitioner perhaps would not have had much to impugn the action of the respondent no. 2.

31. The statement made in Paragraph 10 of the affidavit and the subsequent steps taken by him most certainly are not expected of the disciplinary authority when the time fixed by this Court was running out. They should have taken all the steps as expeditiously as possible and not in a lackadaisical manner. The plea taken by the respondent no. 2 that the report of the inquiry officer was voluminous is not very easily an acceptable defence. The enquiry report as annexed to the writ petition runs into 24 pages, each page containing about 25 lines. The first few pages of the enquiry report i.e., about 9 pages deal with the usual preliminaries, the charge against the petitioner and the defence case, etc. These are imperatives in any enquiry report. Though the disciplinary authority has most certainly to go through the whole report, the consideration of these preliminaries is not really a very time consuming matter. The respondent no. 2 has also stated that he had to consider the findings of the inquiry officer on merit. Such findings have occupied not more than 16/17 pages of the report. It is not understood why the disciplinary authority had taken a few weeks to go through the findings and to consider the same on merit. The explanation on this point is inadequate.

32. After the disciplinary authority agreed with the findings of the Inquiry Officer, he issued a second show-cause notice to the petitioner on September 6, 2016. In other words, the respondent no. 2 had taken about seven weeks to go through and consider the findings of the inquiry officer which runs into not more than 17/18

pages. The respondent no. 2 had given 15 days" time to the petitioner to show cause against the proposed punishment.

33. The petitioner kept himself to the time fixed by the respondent no. 2. I would say he had given his reply even before the expiry of 15 days.

34. The respondent no. 2 has again taken the plea that the reply by the petitioner was voluminous. It is true that the reply was a lengthy one, but it was quite natural under the circumstances, particularly, in a case of a disciplinary proceeding being faced by a very senior engineer of an organization where the delinquent officer has to give reply to the enquiry report and in the process he had to refer to different points and different items as emerging from evidence adduced at the enquiry, both oral and documentary.

35. The next step taken by the respondent no. 2 was very unusual and not expected of him as the disciplinary authority. He thought as per his own statement in the affidavit that for dealing with the said reply it would be sent to the inquiring authority again and by a memo dated November 3, 2016, he did exactly the same. Thereafter, for about three months the disciplinary authority did not take any action or follow it up. It was only on January 31, 2017 that the KMDA authority decided to issue a reminder to the Inquiring authority. In reply to the reminder, the inquiring authority informed the KMDA authorities that the disciplinary authority was solely authorized and competent to determine the penalty to be imposed upon the petitioner and requested him to take a decision.

36. If the disciplinary authority could take a decision on the inquiry report and if he could agree with the findings, it is not understood why the reply by the petitioner should require an external help. The reply as annexed to the writ petition does not

really disclose that the petitioner had referred to any technical engineering aspect of the matter which a non-technical man like an administrative head was not competent to deal. It most certainly refers to various aspects and items of the tender and reference was made to prices of different materials, evidence adduced etc. If the disciplinary authority had felt any difficulty because of the alleged technicalities involved in it there was no point in sending it to the inquiring authority either. After all he too does not appear to be a technical person; at least there is no evidence to that effect.

37. That apart, why must the disciplinary authority send the reply of a delinquent officer to the inquiring authority for dealing with the same? The job of an inquiring authority ends with the submission of the enquiry report and irrespective of whether the reply of the delinquent officer contains any matter touching on any technical aspect, it has to be dealt with by the disciplinary authority and him alone. It is all the more so when the inquiring authority had found the petitioner guilty of the charges. Why was the reply then sent to the inquiring authority? Underlying in the exercise was there not an effort to obtain a response from the inquiring authority so that the reply of the petitioner may be effectively countered and rejected. I have no hesitation in holding that in this respect the disciplinary authority had abdicated his authority in favour of the inquiry officer which he must not have been done, either under the Regulations of the KMDA or under the service jurisprudence in general. Even if he had sent it to the inquiring authority why did he wait for about 12 weeks to send a reminder, when he was far out of the timeframe fixed by this Court? I definitely discover a certain degree of laid back attitude in the conduct of the proceeding, particularly in the manner the

respondent no. 2 had acted.

38. The act of the disciplinary authority was also not supportable for a very different reason. The reply given by the petitioner was against the report of the inquiring authority. The validity of that report was to be decided by the disciplinary authority alone. The respondent no. 2 had sent it to the inquiring authority against whose finding the petitioner had made observations. If under these circumstances the inquiring authority is requested to deal with the reply of the petitioner, he is to decide the validity of the reply which is against his own report. By this, the respondent no. 2 had sought to make the inquiring authority as the judge in his own cause. Otherwise, there was no justifiable explanation why the response to a report should be dealt with by the maker of the report himself, particularly when the inquiring authority was not expected to find any fault with his own report.

39. Even if one accepts the explanation of the disciplinary authority that because of the pendency of the writ petition the final order was not passed, the inordinate delay at every step prior to that clearly evinces that the timeframe fixed by the Court in the earlier writ petition was not seriously attempted to be complied with. If the reasons mentioned in the affidavit were really posing problem to the disciplinary authority to conclude the proceeding within the timeframe fixed by the Court, there was nothing preventing him from approaching the Court at an appropriate stage for extension of time to conclude the proceeding. That would have been in fitness of things, a more appropriate response of the respondents for establishing their bona fides. The respondents have not taken any steps towards that which goes a long way to raise a suspicion that they did not take the Court's order very seriously.

40. On the other hand, the petitioner has done everything within his power. He even gave his reply within the scheduled date and time. There was no lapse on his part. It cannot also be said that by responding to the disciplinary authority's letter, dated September 6, 2016, he had waived his right to raise the issue of delay subsequently. He in his reply specifically reminded the respondent no. 2 about the timeframe fixed by the Court and the effect of not complying with the same including the lack of jurisdiction on the part of the respondent no. 2 to take further steps in the disciplinary proceeding. After expressing his very firm views in the matter, he had given his reply without prejudice to his rights and contentions both in respect of the validity of the disciplinary proceeding as well as the effect of not complying with the timeframe fixed by this Court. Therefore, it is within the right of the petitioner to agitate the issue of non-compliance of the court's order which he has done in the present case.

41. If one reads carefully the order passed by the Court on April 28, 2016 in the earlier writ petition as a whole, one would find it hard to say that the direction of the Court that the disciplinary action "should be concluded within three months from the date" was merely directory or expressed the desire of the Court by which time the disciplinary proceeding should be completed. Most certainly it was more than that. The tone of the judgment has been set out right from the paragraph 2 of the same where the learned Judge emphasized the importance of concluding the disciplinary proceeding within a stipulated period and the impermissibility of continuing with it endlessly. In the said order, the expression "should be" has been used twice, viz., when the learned single Judge had held in respect of the disciplinary proceeding in general that they should be concluded within three to six months and

when it was said that the disciplinary action in the present case should be concluded within three months from the date. In both the cases the Court had used the expression in the sense of an unalterable imperative. It cannot be said that Court was expressing something which should be desirable under normal circumstances. On the contrary, it was expressing its anxiety that for a period of more than 10 months the disciplinary proceeding did not make any progress. Judged in that background the expression "should be" has an unmistakable sense of "must" in it. The Court did not express any desire about the conclusion of the disciplinary proceeding. Because of its failure to make any progress for a very substantial period the Court decided to fix the outer limit by which the disciplinary proceeding was to be concluded. The direction was mandatory and not directory in nature.

42. In the context of what the learned single Judge had earlier directed, had there been a slight or negligible delay in concluding the disciplinary proceeding the Court could have ignored it and might not have taken an exception to the delay occurred in concluding the disciplinary proceeding. As per the timeframe, the disciplinary authority was entitled to get two more weeks after the submission of the enquiry report. But what he had done afterwards was unsupportable on both the counts. It was bad from the point of view of merit as well as in not sticking to the timeframe fixed by him.

43. Any reasonable man thus will be left with no option than to conclude that the disciplinary authority violated the Court's order in not being within the timeframe fixed by the Court, and too by a gross delay. I quite agree with the stand taken by the petitioner that after such an unreasonable delay the disciplinary authority

lacked the authority to pass the final order. Its conduct leads to but one conclusion that the proceeding against the petitioner must be treated to be closed or abandoned. I declare that any steps taken by the respondent authorities beyond the timeframe fixed by the Court was not in terms of the Court's order beyond the jurisdiction of the disciplinary authority and, therefore, is bad in law. I further direct the disciplinary authority as well as the respondent no. 1 not to give any effect or further effect to the order or orders passed by them subsequent to the expiry of the period fixed by the Court.

44. It is further declared that in the absence of any other disqualification and if the petitioner has fulfilled the eligibility criteria in all respects, he shall be entitled to be considered for promotion to the post of the Chief Engineer. If the said post is lying vacant, the respondents shall consider the case of the petitioner along with others within a reasonable timeframe. I make it clear that in view of the petitioner's persistent grievance that he has been superseded repeatedly on the plea of pendency of a disciplinary proceeding against him, this direction for consideration of the case of the petitioner within a proximate future is to be treated as mandatory. It is clarified that the direction to consider the case of the petitioner for promotion has nothing to do with the ultimate decision of the respondent no. 1 in this regard. They shall be free to take the appropriate decision strictly in accordance with law and the procedure laid down therefor. But the fact that the petitioner was once proceeded against and he was found guilty in the present enquiry proceeding shall not be a relevant factor in considering his case for future promotion.

45. The writ petition is thus allowed.

46. There shall be no order as to costs.

47. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.