




2026:AHC-LKO:17278-DB

**A.F.R.**
**Reserved on 11.11.2025**
**Delivered on 10.03.2026**

**HIGH COURT OF JUDICATURE AT ALLAHABAD**
**LUCKNOW**

**WRIT – A No. - 9798 of 2023**

State Of U.P. Thru. Addl. Chief Secy. Tax And Registration Deptt. U.P. Govt. Lko And Another ……Petitioners(s)

Versus

Anshul Jagannath ……Respondents(s)

| | | |
|---|---|---|
| Counsel for Petitioners(s) | : | C.S.C. |
| Counsel for Respondent(s) | : | Anshuman Singh, Ajey Shanker Tewari, Ishaan Tewari |

**Court No. - 25**

**HON'BLE MRS. SANGEETA CHANDRA, J.**
**HON'BLE AMITABH KUMAR RAI, J.**

**(Delivered by Hon'ble Amitabh Kumar Rai,J.)**

**1.** Heard Shri S. M. Ryokwar, learned Additional Advocate General assisted by Shri Anirudh Singh, learned Standing Counsel appearing for the State-petitioners and Shri Ajay Shankar Tiwari, learned counsel for the respondent.

**2.** The instant writ petition has been filed seeking the relief for quashing the judgment and order dated 18.04.2023 passed by the State Public Service Tribunal, Lucknow in Claim Petition No.1708 of 2022 "Anshul Jagannath vs. State of U.P. and another".

**3.** Brief facts of the present case are that an inquiry was conducted by the Special Investigation Branch (SIB) Unit of the department with respect to the period when the sole respondent, Anshul Jagannath was

posted as Assistant Commissioner (Mobile Squad), Commercial Tax at Unnao. The SIB Unit, during the inquiry, found that 22 iron scrap-loaded vehicles without any documents were present at M/s Jagdamba Metallise, Unnao on 02.03.2021, but the respondent failed to take any action and was, therefore, found prima facie guilty of negligence and slackness in the discharge of his duties.

**4.** The respondent was suspended vide order dated 27.04.2021 and disciplinary proceedings were initiated against him under the U.P. Government Servants (Discipline and Appeal) Rules, 1999 (hereinafter referred to as "Rules, 1999"). The Additional Commissioner Grade-I, Commercial Tax, Lucknow, was appointed as Enquiry Officer.

**5.** A charge sheet dated 29.06.2021 was issued against the respondent, containing three charges, which are as follows:

(I) **Charge No. 1:** At the factory of the aforesaid firm, 22 vehicles loaded with raw material of iron scrap were found standing outside and goods worth more than Rs. 50,000/- were found without an e-Way bill, in violation of Rule 138B of the UPGST Rules, 2017. However, during the posting of the respondent at the Mobile Squad, Unnao from 07.09.2020 to 02.03.2021 (the date of inspection), no such vehicles for inward or outward supply were addressed by the respondent, indicating connivance on his part. Accordingly, the sole respondent was found guilty of violating Rule 3 of the U.P. Government Servants Conduct Rules, 1956, for failing to carry out his responsibilities and duties with absolute integrity and devotion to duty.

(ii) **Charge No. 2:** On 10.03.2021, the sole respondent detained a passenger bus for inspection and found that some goods were being illegally transported. However, he did not take any action. The respondent spoke with the owner of the bus over the mobile phone and allegedly bargained to provide him an illegal benefit. The audio clip of the conversation between the sole respondent and the bus owner was broadcast on the news channel "Nav Bharat Times". Accordingly, the

sole respondent was found guilty of violating Rule 3 of the U.P. Government Servants Conduct Rules, 1956.

(iii) **Charge No. 3:** After detaining the aforesaid passenger vehicle, the sole respondent sent an SMS to the departmental server with a delay of two hours and Interception No.554963 was received from the server. Further, the order in Form GST MOV-02 for verification of goods loaded on the vehicle was issued with a delay of seven hours. In this manner, the sole respondent violated Circular No.1819010, dated 09.05.2018, as he did not ensure compliance with the instructions contained therein. This indicates indiscipline and a disregard for government instructions.

**6.** The sole respondent submitted his reply to the charge sheet vide letter dated 19.07.2021. Thereafter, the Enquiry Officer proceeded with the enquiry and fixed the date 02.08.2021 for a personal hearing. On that date, the respondent submitted an additional reply to Charge No.3, denying the allegations. The Enquiry Officer submitted his report vide letter dated 28.09.2021 concluding that Charge No.1 was partly proved, and Charges No.2 and 3 were fully proved against the respondent. A show-cause notice dated 29.10.2021 was thereafter issued under Rule 9(4) of the Rules, 1999. The sole respondent submitted his reply to the show-cause notice on 18.11.2021 and also made a representation dated 06.12.2021 for revoking his suspension, as he was under suspension since 27.04.2021.

**7.** The respondent also filed Writ Petition No.21920 (SS) of 2021 “Anshul Jagannath vs. State of U.P. and Others” challenging the order of suspension as well as the disciplinary proceedings. The writ petition was disposed of vide judgment and order dated 29.09.2021, directing the competent authority to proceed with the disciplinary proceedings and conclude the same within a period of two months, failing which the suspension order of the petitioner (respondent herein) would stand revoked and he would be reinstated in service.

**8.** The disciplinary authority, after considering the findings of the Enquiry Officer and the reply to the show-cause notice, tentatively decided to impose the punishment of stoppage of four increments with permanent effect along with a censure entry. The consent for the proposed punishment was sought from the U.P. Public Service Commission vide letter dated 07.02.2022 and the Commission gave its consent vide letter dated 02.05.2022. Ultimately, the disciplinary authority passed the punishment order dated 30.05.2022, imposing the punishment of a censure entry and stoppage of four increments permanently, while revoking the suspension of the respondent.

**9.** Feeling aggrieved, the sole respondent filed Claim Petition No.1708 of 2022 "Anshul Jagannath vs. State of U.P. and Another" which was allowed by the State Public Service Tribunal, Lucknow vide judgment and order dated 18.04.2023. The said order has been assailed in the instant writ petition.

**10.** Shri S. M. Ryokwar, learned Additional Advocate General appearing for the State-petitioners submitted that the judgment and order dated 18.04.2023 passed by the Tribunal is perverse, as the Tribunal's reliance on the judgment of the Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi v. New India Assurance Company Limited and Others** reported in **2013 SCC OnLine All 16288**, is misconceived. It has been contended that the direction issued by the Writ Court in Writ Petition No.21920 (SS) of 2021 vide order dated 29.09.2021 was to the extent that if the disciplinary proceedings is not completed within two months, then in such circumstances, the suspension order would stand revoked but that does not bar the further continuation of disciplinary proceedings.

**11.** The reliance has also been placed upon the judgment of the Hon'ble Supreme Court in the case of **Union of India and Others v. Sharvan Kumar** reported in **2022 SCC OnLine SC 2032**. It is the specific argument of the learned Additional Advocate General that there was no bar imposed by the Writ Court on the continuation of disciplinary

proceedings if it could not be completed within the stipulated period. The only consequence of not completing the disciplinary proceedings within timeline fixed by the Court vide order dated 29.09.2021 was that the suspension would stand revoked but no bar was imposed on the continuation of the disciplinary proceedings.

**12.** Shri S. M. Ryokwar, learned Additional Advocate General further argued that there were no procedural defects in the departmental enquiry. Ample opportunity was given to the respondent by fixing date and time for personal hearing and the Enquiry Officer, after due consideration, found Charge No.1 partly proved and Charges No. 2 and 3 fully proved. It has been contended that, even assuming some procedural defects existed, the Tribunal ought to have remitted the matter back to the disciplinary authority for conducting a fresh enquiry from the stage where the defect occurred in view of the settled law laid down by the Hon'ble Supreme Court in the case of **Chairman, Life Insurance Corporation of India and Others v. A. Masilamani**, reported in **(2013) 6 SCC 530**. Reliance has also been placed on the judgment of the Allahabad High Court in the case of **State of U.P. through Principal Secretary, Tax and Registration Department v. Rakesh Jain and Another**, reported in **2023 SCC OnLine All 933.**

**13.** On the other hand, Shri Ajay Shankar Tiwari, learned counsel for the respondent argued that once a time limit was fixed by the Writ Court in Writ Petition No.21920 (SS) of 2021 vide judgment and order dated 29.09.2021 for completion of disciplinary proceedings within two months then in such case, the disciplinary proceedings has to be necessarily completed within such period and in case of failure, permission for extension of time should have been sought from the Court. As it is not disputed that the disciplinary proceedings could not be completed within the time fixed by the Court and no extension of time was sought, the disciplinary proceedings stood vitiated in view of the Full Bench judgment in the case of ***Abhishek Prabhakar Awasthi (supra)***, affirmed by the Hon'ble Supreme Court in the case of **State of U.P. through Principal Secretary, Department of Panchayati Raj,**

**Lucknow v. Ram Prakash Singh**, reported in **2025 SCC OnLine SC 891**, particularly in the light of paragraphs 61 to 64 of the judgment.

**14.** After hearing the parties, the issues which arise for consideration are as follows:

(i) Whether, under the facts and circumstances of the case, the departmental enquiry stood vitiated, as the disciplinary proceedings were not completed within the timeline fixed by the Court vide judgment and order dated 29.09.2021 passed in Writ Petition No.21920 (SS) of 2021 in light of the judgment of Full Bench in the case of **Abhishek Prabhakar Awasthi (supra)**, affirmed by the Hon'ble Supreme Court in the case of **Ram Prakash Singh (supra).**

(ii) If the answer to Issue No.1 is in the negative, that is to say, that the disciplinary proceedings lawfully continued beyond the timeline fixed by the Court, then the question arises whether the Tribunal, having found procedural defects in the enquiry, should have remanded the matter to the disciplinary authority for a fresh enquiry from the stage of the defect in view of the law laid down by the Hon'ble Supreme Court in the case of **Chairman, LIC of India (supra) and Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others**, reported in **(1993) 4 SCC 727**.

**15.** With regard to the first issue, it would be proper to take into consideration the judgment and order dated 29.09.2021 passed in Writ Petition No.21920 (SS) of 2021, in which the respondent had challenged the suspension order dated 27.04.2021 as well as the disciplinary proceedings. The Writ Court, after considering the arguments, did not find it a fit case to interfere with the suspension order. However, it directed that the disciplinary proceedings be completed within two months, failing which the suspension order would stand revoked. Thus, the consequence of not completing the disciplinary proceedings within the time fixed by the Court was only to the extent that the suspension order shall stand revoked. This cannot, by any interpretation, be construed to mean that the disciplinary proceedings could not continue

after the timeline fixed by the Court. The order dated 29.09.2021 passed in Writ Petition No.21920 (SS) of 2021 "Anshul Jagannath vs. State of U.P. and Others" is reproduced hereinbelow for ready reference :

> *"Heard learned counsel for the petitioner and learned Additional Chief Standing Counsel for the State.*
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> *The petitioner has been placed under suspension by means of the order dated 27.4.2021. Charge-sheet has also been issued to the petitioner on 29.6.2021 and in response thereto he has already submitted his reply. It is after submission of the reply to the charge-sheet that the petitioner has come up against the order of suspension as well as the initiation of the disciplinary proceedings.*
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> *Going into the legality of the disciplinary proceedings would be merely an academic exercise, thus the Court desists from entering into the merit of the same. Insofar as the order of suspension passed against the petitioner is concerned, it is submitted that more than five months time has already elapsed but the disciplinary proceedings despite a charge-sheet having been issued to the petitioner on 29.6.2021 has not been concluded.*
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> *The submissions in nutshell is that the continued suspension of the petitioner amounts to an arbitrary exercise of power. That apart, learned counsel for the petitioner taking this Court through the statutory rule i.e. Rule 4 of the U.P. Government Servants(Discipline and Appeal) Rules, 1999 has argued that the charges levelied against the petitioner are not such which may attract a major punishment. The dereliction of duty of the description as alleged in the charge-sheet merely attracts a remark on the officer's efficiency and cannot be classified to be a misconduct in service jurisprudence.*
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> *This Curt having having regard to the operation of the order of suspension for about five months and failure on the part of the disciplinary authority to conclude the disciplinary proceedings is satisfied that the submission put-forth by learned counsel for the petitioner has force.*

*This Court as an abundant caution therefore directs the competent authority to proceed with the pending inquiry and conclude the same within a period of two months from today. In the event of failure on the part of the competent authority to conclude the inquiry within the period aforementioned, the order of suspension shall stand revoked and the petitioner shall be reinstated in the service and paid regular salary. Insofar as the difference of the salary during the period of suspension is concerned, the decision in this regard shall be taken at the time of taking a decision on the inquiry report submitted in the case.*

*The petitioner undertakes to co-operate with the inquiry."*

**16.** A bare perusal of the judgment and order dated 29.09.2021 passed in Writ Petition No.21920 (SS) of 2021 reflects that the Court took into consideration the fact that the petitioner (respondent herein) had been under suspension for about five months and the disciplinary proceedings had still not been completed. Upon such consideration, the Court directed that the disciplinary proceedings be completed within a period of two months, failing which the suspension was to be revoked. The timeline fixed by the Court while passing the judgment and order dated 29.09.2021 for completion of the disciplinary proceedings was confined only to the extent of the petitioner's suspension (respondent herein) and cannot be construed to mean that after the lapse of two months, the disciplinary proceedings could not be continued against the petitioner (respondent herein). The argument of learned counsel for the State-petitioners, relying on the judgment of Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi (supra),** is thus misconceived and liable to be rejected.

**17.** In the judgment of Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi (supra),** paragraph 19 answers the reference, which is reproduced hereinbelow :

*"**19.** In view of the above discussion, we now proceed to answer the questions which have been referred to the Full Bench.*

*(A) Question No. (a): We hold that if an enquiry is not concluded within the time which has been fixed by the Court, it is open to the employer to seek an extension of time by making an appropriate application to the court setting out the reasons for the delay in the conclusion of the enquiry. In such an event, it is for the court to consider whether time should be extended, based on the facts and circumstances of the case. However, where there is a stipulation of time by the Court, it will not be open to the employer to disregard that stipulation and an extension of time must be sought;*

*(B) Question No. (b): The judgment of the Supreme Court in the case of Suresh Chandra (supra) as well as the judgment of the Division Bench of this Court in the case of Satyendra Kumar Sahai (supra) clearly indicate that a mere delay on the part of the employer in concluding a disciplinary enquiry will not ipso facto nullify the entire proceedings in every case. The court which has fixed a stipulation of time has jurisdiction to extend the time and it is open to the court, while exercising that jurisdiction, to consider whether the delay has been satisfactorily explained. The court can suitably extend time for conclusion of the enquiry either in a proceeding instituted by the employee challenging the enquiry on the ground that it was not completed within the stipulated period or even upon an independent application moved by the employer. The court has the inherent jurisdiction to grant an extension of time, the original stipulation of time having been fixed by the court itself. Such an extension of time has to be considered in the interests of justice balancing both the need for expeditious conclusion of the enquiry in the interests of fairness and an honest administration. In an appropriate case, it would be open to the Court to extend time suo motu in order to ensure that a serious charge of misconduct does not go*

> *unpunished leading to a serious detriment to the public interest. The court has sufficient powers to grant an extension of time both before and after the period stipulated by the court has come to an end.*
>
> (Emphasis supplied by us)

**18.** The proposition of law laid down by the Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi (supra)** provides for even suo motu exercise of power by this Court to extend the timeline for completion of disciplinary proceedings in order to ensure that a serious charge of misconduct does not go unpunished. This means that in an appropriate case where the employer has not approached the Court for extension of the timeline for completing the disciplinary proceedings, the Court concerned, while adjudicating the validity of the orders passed in the disciplinary proceedings, should also take into consideration the factors due to which the proceedings could not be completed. The Court may then exercise its suo motu power to extend the time limit so as to ensure that a serious charge of misconduct does not go unpunished, thereby preventing serious detriment to the public interest.

**19.** The judgment of the Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi (supra)** cannot be mechanically applied to all cases by the court or tribunal to allow a petition against a punishment order on the ground that the disciplinary proceedings were not completed within the timeline fixed by this Court in an earlier petition. In fact, the court or tribunal, while adjudicating such issues, is also bound to examine the circumstances under which the disciplinary proceedings could not be concluded within the time fixed by the Court as well as the gravity of the charges, so as to determine whether its suo motu power to extend the time limit ought has to be exercised.

**20.** Be that as it may, the fact remains that the proposition of law laid down in the judgment of the Full Bench of this Court in the case of **Abhishek Prabhakar Awasthi (supra)** is not attracted to the controversy involved in the present writ petition, as we have already held hereinabove that the timeline fixed by this Court while passing the

judgment and order dated 29.09.2021 in Writ Petition No.21920 (SS) of 2021 was only in reference to the continuation of the suspension order and not with respect to the continuation of the disciplinary proceedings after the lapse of the two months timeline fixed by the Court.

**21.** It would also be appropriate to refer to the judgment of the Hon'ble Supreme Court in the case of **Sharvan Kumar (supra)**, wherein the Hon'ble Supreme Court has observed in paragraphs 31 to 37 as follows:

> *"**31.** It needs hardly any elaboration to say that fixing of the period of two months by the Tribunal in this case had only been to ensure expeditious proceedings because the matter was being restored for reconsideration in the year 2010, though the disciplinary proceedings related with the incident dated 09.01.2005. However, the said period of two months did not acquire any status akin to that of a statutory mandate that the disciplinary proceedings would have automatically come to an end with its expiry. It remains trite that if an Adjudicating Authority in exercise of its jurisdiction could grant or fix a time period to do a particular thing, in the absence of a specific statutory provision to the contrary, the jurisdiction to fix such a time period inhers the jurisdiction to extend the time initially fixed. Such conditional orders have regularly been construed by this Court to be in terrorem so as to put a check on the dilatory tactics by any litigant or to guard against any laxity on the part of the Adjucating Authority but, the Court is not powerless to enlarge the time even though it had peremptorily fixed the period at any earlier stage. In the case of Mahanth Ram Das v. Ganga Das, (1961) 3 SCR 763, this Court examined the peremptory order of the Court fixing the period of payment of deficit court fees in the backdrop of the fact that the application for extension of time came up for hearing only after the time fixed by the Court had expired and the application was rejected. This Court put the things in perspective while observing, inter alia, as under:—*

*"5…Such orders are not like the law of the Medes and the Persians. Cases are known in which Courts have moulded their practice to meet a situation such as this and to have restored a suit or proceeding, even though a final order had been passed…"*

***32.*** *We may elaborate a little. When a conditional order is passed by the Court/Tribunal to do a particular act or thing within a particular period but the order does not provide anything as to the consequence of default, the Court/Tribunal fixing the time for doing a particular thing obviously retains the power to enlarge such time. As a corollary, even the Appellate Court/Tribunal or any higher forum would also be having the power to enlarge such time, if so required. In any case, it cannot be said that the proceedings would come to an end immediately after the expiry of the time fixed.*

*(Emphasis supplied by us)*

***33.*** *In the present case, even the order dismissing the application for enlargement of time on a technical ground of not placing before the Tribunal instructions of the Railway Board, had again been not of giving any such status of mandatory and rigid character to the period originally fixed that the proceedings would have abated.*

***34.*** *We are impelled to observe that while treating the proceedings as having abated and as nullity, the High Court has ignored the fundamental principles that fixing of such time period was only a matter of procedure with an expectation of conclusion of the proceedings in an expeditious manner. This period of two months had not acquired any such mandatory statutory character so as to nullify the entire of the disciplinary proceedings with its expiry.*

*(Emphasis supplied by us)*

***35.*** *Moreover, when no consequence of default was stated in the order dated 03.09.2010, the period as stated therein was only of expectations and not of mandate. We*

*may also observe that very many times, such fixing of time period causes more complications and harm rather than serving the cause of justice. Fixing of such period could only be justified if there are strong and compelling reasons for the same; and if at all such period is proposed to be fixed, not only the reasons for the same but, even the consequences of default are also required to be stated if such period is, for any valid reason, expected to operate with adverse consequences on the defaulter.*

***36.*** *The upshot of the discussion foregoing is that the proceedings in question neither abated nor could have been considered nullity only because of passage of the expected time period stated in the order of the Tribunal dated 03.09.2010.* *(Emphasis supplied by us)*

*There was no reason or justification for the High Court to interfere with the just and proper order passed by the Tribunal on 21.06.2013, which deserves to be restored with necessary consequential directions.*

***37.*** *Before concluding, we also deem it necessary to observe that the High Court in the impugned order proceeded to pass unnecessary strictures against the Disciplinary Authority who had passed the order dated 17.02.2011. As noticed, the displeasure as expressed by the High Court has itself been founded on a wrong premise where the High Court assumed that the proceedings were rendered nullity and as if the Disciplinary Authority could not have touched the same at all after expiry of the expected period of time. We are clearly of the view that even if the High Court were to proceed on the premise that the proceedings should not have continued, there was no justification to observe that the Disciplinary Authority had been disrespectful towards the judicial process. In any case, when the order impugned is not being approved, such observations/ strictures shall also stand annulled.*

**22.** Now, coming to the second issue with regard to the finding recorded by the Tribunal with reference to the procedural defects in the

enquiry, we are of the view that the law in this regard is well settled by the Hon'ble Supreme Court in a of catena of its judgment.

**23.** Hon'ble Supreme Court in the case of **Chairman Life Insurance Corporation of India and others vs. A. Masilamani** reported in **(2013) 6 SCC 530** held that when a court or tribunal sets aside an order of punishment imposed in a disciplinary proceeding on technical grounds, then, in such a situation, the court or tribunal must provide an opportunity to the disciplinary authority to complete the proceedings afresh from the stage at which the disciplinary proceedings stood vitiated. Paragraphs 15 to 19 of the said judgment are reproduced hereinbelow:

> "**15.** *In view of the issues raised by the learned counsel for the parties, the folloing questions arise for our consideration:*
>
> **15.1.** *When a court/tribunal sets aside the order of punishment imposed in a disciplinary proceeding on technical grounds i.e. non-observance of statutory provisions, or for violation of the principles of natural justice, then whether the superior court, must provide* o*pportunity to the disciplinary authority to take up and complete the proceedings from the point that they stood vitiated; and*
>
> **15.2.** *If the answer to Question 1 is that such fresh opportunity should be given, then whether the same may be denied on the ground of delay in initiation, or in conclusion of the said disciplinary proceedings.*
>
> **16.** *It is a settled legal proposition, that once the court sets aside an order of punishment, on the ground that the enquiry was not properly conducted, the court cannot reinstate the employee. It must remit the case concerned to the disciplinary authority for it to conduct the enquiry from the point that it stood vitiated, and conclude the same. (Vide ECIL v. B. Karunakar [(1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704 : AIR 1994 SC 1074], Hiran Mayee Bhattacharyya v. S.M. School*

*for Girls [(2002) 10 SCC 293 : 2003 SCC (L&S) 1033] , U.P. State Spg. Co. Ltd. v. R.S. Pandey [(2005) 8 SCC 264 : 2006 SCC (L&S) 78] and Union of India v. Y.S. Sadhu [(2008) 12 SCC 30 : (2009) 1 SCC (L&S) 126] .)*

**17.** *The second question involved herein is also no longer res integra. Whether or not the disciplinary authority should be given an opportunity to complete the enquiry afresh from the point that it stood vitiated depends upon the gravity of delinquency involved. Thus, the court must examine the magnitude of misconduct alleged against the delinquent employee. It is in view of this, that courts/tribunals are not competent to quash the charge-sheet and related disciplinary proceedings, before the same are concluded on the aforementioned grounds.*

**18.** *The court/tribunal should not generally set aside the departmental enquiry, and quash the charges on the ground of delay in initiation of disciplinary proceedings, as such a power is dehors the limits of judicial review. In the event that the court/tribunal exercises such power, it exceeds its power of judicial review at the very threshold. Therefore, a charge-sheet or show-cause notice, issued in the course of disciplinary proceedings, cannot ordinarily be quashed by the court. The same principle is applicable in relation to there being a delay in conclusion of disciplinary proceedings. The facts and circumstances of the case in question have to be examined taking into consideration the gravity/magnitude of charges involved therein. The essence of the matter is that the court must take into consideration all relevant facts and to balance and weigh the same, so as to determine if it is in fact in the interest of clean and honest administration, that the judicial proceedings are allowed to be terminated only on the ground of delay in their conclusion. (Vide State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 : (1987) 3 ATC 319 : AIR 1987 SC 943], State of M.P. v. Bani Singh [1990 Supp SCC 738 : 1991 SCC (L&S) 638 :*

*(1991) 16 ATC 514 : AIR 1990 SC 1308] , Union of India v. Ashok Kacker [1995 Supp (1) SCC 180 : 1995 SCC (L&S) 374 : (1995) 29 ATC 145] , Prohibition & Excise Deptt. v. L. Srinivasan [(1996) 3 SCC 157 : 1996 SCC (L&S) 686 : (1996) 33 ATC 745], State of A.P. v. N. Radhakishan [(1998) 4 SCC 154 : 1998 SCC (L&S) 1044 : AIR 1998 SC 1833], M.V. Bijlani v. Union of India [(2006) 5 SCC 88 : 2006 SCC (L&S) 919 : AIR 2006 SC 3475] , Union of India v. Kunisetty Satyanarayana [(2006) 12 SCC 28 : (2007) 2 SCC (L&S) 304] and Ministry of Defence v. Prabhash Chandra Mirdha [(2012) 11 SCC 565 : (2013) 1 SCC (L&S) 121 : AIR 2012 SC 2250] .)*

**19.** *The word "consider" is of great significance. The dictionary meaning of the same is, "to think over", "to regard as", or "deem to be". Hence, there is a clear connotation to the effect that there must be active application of mind. In other words, the term "consider" postulates consideration of all relevant aspects of a matter. Thus, formation of opinion by the statutory authority should reflect intense application of mind with reference to the material available on record. The order of the authority itself should reveal such application of mind. The appellate authority cannot simply adopt the language employed by the disciplinary authority and proceed to affirm its order. (Vide Indian Oil Corpn. Ltd. v. Santosh Kumar [(2006) 11 SCC 147 : (2007) 1 SCC (L&S) 388] and Bhikhubhai Vithlabhai Patel v. State of Gujarat [(2008) 4 SCC 144 : AIR 2008 SC 1771] .)*

**24.** At this juncture, it would also be appropriate to examine the manner in which the disciplinary proceedings were conducted so as to ascertain whether there was any procedural defect at any stage of the proceedings. The record reveals that the charge sheet dated 29.06.2021 containing three charges, was served upon the respondent on 05.07.2021. The respondent was required to submit his reply to the charges along with evidence by 20.07.2021 before the Enquiry Officer. On 19.07.2021, the respondent appeared before the Enquiry Officer and submitted his

written reply to the charges running up to 19 pages along with documentary evidence in support thereof. On the same date i.e. 19.07.2021, the next date i.e. 23.07.2021 was fixed for personal hearing. During the course of the personal hearing on 23.07.2021, the respondent stated with respect to the first and second charges that he had nothing further to submit beyond what had already been mentioned in his written reply and he does not wish to submit or produce any additional evidence. He also stated that he did not want to cross-examine any person.

**25.** With regard to charge no.3, the respondent submitted that apart from his written reply, his submission is that after ensuring that the vehicle was at fault, he had issued the interception within half an hour in accordance with the provisions of the Enforcement Manual and he would provide a certified copy of the Manual on the next date of hearing. He further stated that he had nothing more to say regarding charge no.3 and he did not wish to produce any other evidence. He also requested for providing a copy of the CD and pen drive with respect to charge no.2. Thereafter, the next date for personal hearing was fixed for 02.08.2021 and a letter was issued by the Enquiry Officer to the Additional Commissioner, Grade-II, Commercial Tax, Kanpur Zone-I, Kanpur for providing a copy of the CD and pen drive to the respondent and a copy of the said letter was also handed over to him.

**26.** On the next date of personal hearing i.e. 02.08.2021, the respondent submitted a one-page additional written reply with regard to charge no.3 and also produced a photocopy of page no.40 of the Manual relating to the Mobile Squad. On that date, he again stated that he did not intend to cross-examine any person with respect to the charges nor did he wish to submit any further evidence. He further stated that he had not violated any rule of the U.P. Government Servants Conduct Rules nor had he committed any intentional negligence and he had always discharged his duties with the utmost dedication.

**27.** Thereafter, the Enquiry Officer concluded the enquiry proceedings and submitted the enquiry report dated 28.09.2021 to the disciplinary

authority, who, in turn, issued a show-cause notice dated 29.10.2021 to the respondent along with a copy of the enquiry report. The respondent subsequently submitted his reply to the show-cause notice vide letter dated 18.11.2021. The disciplinary authority, after obtaining approval from the U.P. Public Service Commission with respect to the proposed punishment, passed the punishment order dated 30.05.2022.

**28.** A bare perusal of the punishment order dated 30.05.2022 indicates that the disciplinary authority reproduced extracts of the enquiry report with respect to the charges and in light of the findings recorded by the Enquiry Officer, proceeded to pass the punishment order. The order of punishment nowhere refers to the respondent's reply dated 18.11.2021 to the show-cause notice issued to him. The reply dated 18.11.2021 to the show cause notice dated 29.10.2021 was not considered at all by the disciplinary authority before passing the order of punishment. As such, for the aforesaid reason, the punishment order dated 30.05.2022 cannot be sustained.

**29.** The upshot of the aforesaid discussion is that the order of punishment dated 30.05.2022 cannot be sustained for the reason that the respondent's reply dated 18.11.2021 to the show-cause notice has not been considered at all and for the said reason, it can be said that the disciplinary proceedings stood vitiated at the stage of passing of the punishment order dated 30.05.2022. At the same time, we hold that the reasoning given by the learned Tribunal to the extent that the disciplinary proceedings could not have been continued beyond the timeline fixed by the Writ Court while passing the judgment and order dated 29.09.2021 in Writ Petition No.21920 (SS) of 2021, wherein a direction was issued to the competent authority to complete the disciplinary proceedings within two months, is not sustainable as we have already held while deciding the aforesaid charge no.1.

**30.** In view of the above discussion, the writ petition is **partly allowed** and the judgment and order dated 18.04.2023 passed by the State Public Service Tribunal, Lucknow, in Claim Petition No.1708 of

2022 “Anshul Jagannath vs. State of U.P. and another” is modified to the extent that liberty is granted to the disciplinary authority to pass a fresh order of punishment after taking into consideration the reply dated 18.11.2021 submitted by the respondent to the show-cause notice dated 29.10.2021 issued to him. The aforesaid exercise shall be completed within a period of three months from today.

**31.** No order as to costs.

**March 10, 2026**
Mahesh

**(Amitabh Kumar Rai) (Mrs. Sangeeta Chandra)**