

Party Name : BIJOY MANIK DEBBARMA Vs THE STAE ELECTRICITY CORPN. LTD & ORS

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THE HONBLE MR. JUSTICE S.TALAPATRA

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Heard Mr. C.S. Sinha, learned counsel appearing for the petitioner as well as Mr. D.C. Nath, learned counsel appearing for the respondents.

The grievance of the petitioner as agitated in the writ petition is that even though he was suspended by the order dated 28.11.2012, Annexure-2 to the writ petition, and he had approached this court for setting aside the said suspension order by filing a writ petition, being W.P.(C) No.348/2013, which was disposed of by the order dated 14.03.2014, directing the Chairman-cum-Managing Director that the respondent would make necessary review as to whether there is any necessity of continuance of the order of suspension or not within a period of three months, no such review was undertaken and the petitioner's suspension continued unabated.

By the order dated 07.08.2015, the following direction was passed by this court :

"At the request of Mr. D. C. Nath, learned counsel appearing for the respondents, list the matter again on 24.08.2015. This accommodation has been made as a last chance. If no affidavit-in-opposition is filed within the next date, this writ petition will be decided on the records available with the writ petition.

It is further stated that the Chairman-cum-Managing Director, the respondent No.2, shall file a personal affidavit as to why he has not complied with the time bound direction as contained in the order dated 14.03.2014 delivered in W.P.(C) No.348 of 2013.

It is further made clear that if the reason does not appear satisfactory, this Court may draw up a contempt proceeding suo motu.

A copy of this order be furnished to Mr. D. C. Nath, learned counsel for the respondents."

By filing a personal affidavit, the respondent No.2, Shamal Kumar Ray, Chairman-cum-Managing Director, Tripura State Electricity Corporation Ltd., has tendered unconditional apology before this court for his conduct for not carrying out the review as directed by this court within the time frame. He expressed his remorse and sought for pardon of this court. By the said affidavit, he has also stated that he had constituted a Review Committee on 06.08.2015 and the said Review Committee had taken the exercise of reviewing the order of suspension as to its further extension and opined that continuation of petitioner's suspension is required for the disciplinary proceeding.

From the report of the Review Committee dated 06.08.2015, Annexure-R/2 to the personal affidavit, it reveals that the Review Committee has observed as under :

"Under the above serious allegation as contemplated against Sri Debbarma, MRCBC (Now under Suspension) the Review Committee opined that the suspension order No.F.CMD/19.69/ 2012/1431-42, DATED 28-11-2012 in respect of Sri Bijoy Manik Debbarma, MRCBC (Now under Suspension) cannot be come into consideration for revoke until finalization of departmental proceeding from the Inquiry Authority."

Thereafter, the necessary order in terms of the said report has been issued by the respondent No.2 on 07.08.2015, Annexure-R/3 to the personal affidavit.

The respondents No. 1, 2 and 3, by filing a composite counter-affidavit, have also stated likewise.

Having regard to this development, this court is of the view that this court cannot exercise its extraordinary jurisdiction to quash the suspension order when a Committee constituted by the competent authority has taken exercise of review as to whether the suspension is required to be extended or not and has opined that extension of the suspension is required in the interest of the disciplinary proceeding. However, the writ petition can be disposed of by the following direction :

The respondent No.2 in particular is directed to review the necessity of continuation of the suspension order of the petitioner on every 3(three) months and if it appears that continuation of the suspension order is no more required, the said suspension order be immediately revoked subject to the outcome of the disciplinary proceeding.

Accordingly, this writ petition stands disposed of. There shall be no order as to costs in the circumstances of the case.