

Shyamal Sundar Kundu alias Shyamal Kundu

-vs.-

State of West Bengal & Ors.

Mr. Ashit Kumar Chakraborty
Mr. Sunanda Mohan Ghosh

... for the petitioner

Mr. Pradip Kr. Roy
Ms. Shraboni Sarkar

... for the State

Mr. Milon Bhattacharya
Ms. Sulagna Bhattacharya

... for the respondent

Mr. Satyendra Agarwal

... for respondent No. 7 & 8

The writ petitioner is aggrieved by the fact that a departmental enquiry has been started against him for acts of omissions of embezzlement in the course of employment.

He submits he has been acquitted in criminal proceedings and also that the Midnapore Cooperative Milk Producers Union has delayed completion of the enquiry for a substantial period of time. He submits that he retired in January, 2009.

The fact however remains that the chargesheet in the departmental proceedings was issued to the writ petitioner prior to his superannuation.

Mr. Milon Bhattacharya, learned Senior Advocate relies upon a Supreme Court decision in the case of State of West Bengal vs. Pronab Chakraborty

reported in 2015 (2) SCC 496 particularly paragraph 4 & 5 thereof.

He submits that although Cooperative Rules of 2011 do not conceive of the departmental enquiry continuing the posts superannuation, the Midnapore Cooperative Milk Producers Union has relied upon Rule 10 of the West Bengal Services (Death cum Retirement Benefit) Rules of 1971 of the State in this regard which provide that an enquiry in case of major conduct can be continued even post superannuation. The Supreme Court, in the above decision has relied upon such rules to permit similar enquiries, post superannuation.

Similar provisions are also available in the CCS & CCA Rules of various State Governments and Public Sector Organisations in the country.

This court, therefore, in the interest of justice to enable the petitioner to defend himself in the enquiry directs the Midnapore Cooperative Milk Producers Union to complete the enquiry within a period of three months from the date of communication of the copy of this order.

Mr. Bhattacharya submits that the next date of the enquiry is already fixed on 15.01.2021 which the learned counsel for the writ petitioner confirms.

The writ petitioner shall participate in the enquiry without seeking any unnecessary adjournment and the enquiry shall be conducted in accordance with law.

It is made clear that this court has not expressed any view on the merits of the charges against the petitioner and the same shall be dealt with by the Disciplinary Authority on the basis of the evidence that comes on record.

With the above observations, the instant writ application stands **disposed of**, however, without any order as to costs.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(Rajasekhar Mantha, J.)