

ORDER SHEET

WPO 288 of 2020

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

TRIPTI RANJAN ROY
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA
Date : 19th October, 2020.

Appearance:
Mr. Dubdutta Basu, Adv.
...for the petitioner.

Mrs. Chama Mookherji, Adv.
...for the State.

Ms. Deblina Chatterjee, Adv.
...for the respondent Corporation.

The Court : The petitioner, who worked as a conductor on the buses plied by the West Bengal Transport Corporation, seeks an order for setting aside of a letter dated 28th May, 2020 by which the petitioner was directed to show cause from the date of receipt of the notice as to why the petitioner's service should not be terminated. The show cause notice was issued by the Deputy Managing Director of the West Bengal Transport Corporation.

Learned Counsel for the petitioner submits that the alleged offence took place on 27th January, 2020 and the petitioner was verbally asked not to report for work from 28th January, 2020. Counsel submits that the petitioner has not received his subsistence allowance from 28th January, 2020 even though the show cause notice was served on the petitioner on 28th May, 2020 by the concerned respondents. Counsel submits that the relevant law and the rules of

the West Bengal Transport Corporation provides that a person must be given his subsistence allowance in the face of disciplinary proceedings etc., and at least for the first three months. Counsel relies on an order of the West Bengal Transport Corporation which corroborates this contention. Counsel further places an order passed by a Co-ordinate Bench in WP No.867 of 2016 by which the Calcutta Tram Company Limited was directed to pay subsistence allowance to the petitioner in accordance with law.

Learned Counsel appearing for the State as well as the West Bengal Transport Corporation submits that payment of subsistence allowance can only arise when a worker has been suspended. In this case, no order of suspension has been issued against the petitioner and there are no materials to show that the petitioner has been asked to stay away from work.

Having heard learned Counsel for the parties, this Court is of the view that the impugned communication is a show cause notice of punishment dated 28th May, 2020. It appears that an earlier show cause notice was also issued to the petitioner on 15th May, 2020. The contention that the petitioner has been directed to stay away from work from 28th January, 2020 is a matter of averment in the writ petition and does not appear from any of the documents impugned in this proceeding. As learned Counsel for the State points out the impugned communication of 28th May, 2020 may be seen as an official direction on the petitioner not to work until the completion of the disciplinary proceedings initiated against the petitioner. The facts make it clear that there was no official communication of the charge against the petitioner from January, 2020 to May, 2020. Therefore, there is also no reason why the petitioner should be asked to stay away from work or not given any allowance from January to June, 2020.

The question of subsistence allowance does not arise in the facts as there is no order of suspension against the petitioner. Since proceedings have already been initiated against the petitioner, this Court is not inclined to set aside the show cause notice dated 28th May, 2020 without addressing the merits of the matter.

It is made clear, however, that the petitioner should be paid his normal salary from January 2020 to 31st May, 2020 and his subsistence allowance from 1st June, 2020 until the disciplinary proceedings are concluded against the petitioner. The petitioner will be paid in accordance with the terms of his employment.

Since no affidavits have been called upon, WPO No.288 of 2020 is disposed of. IA GA No.1 of 2020 is also disposed of in terms of above.

(MOUSHUMI BHATTACHARYA, J.)