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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7220 of 2021

Kallol Chowdhury
Vs.
Union of India & Ors.

Mr. Indrajit Biswas,
Mr. D. Goswami
.... For the petitioner.

Mr. Indranil Nandi,
Mr. Sayak Konar
... For the respondents no. 2 and 3.

The petitioner has approached this Court by way of the instant writ petition challenging the letter of suspension dated 22nd September, 2017.

Admittedly, no disciplinary proceedings have been initiated despite lapse of more than four years. The employer's conduct is deplorable as a person cannot be kept under suspension for an indefinite period without initiating the disciplinary proceedings as against him.

On behalf of the employer it is submitted that the disciplinary proceedings could not be initiated as the allegations against the petitioner are of financial irregularities and unless the audit of the employer, being a Co-operative Society, is conducted by the Director of Co-operative Audit, Government of West Bengal, the employer will not have a complete picture. The audit, according to

the employer, is going on at the present and is expected to be completed within a short period of time.

In such circumstances, the employer shall take a decision as to whether they intend to initiate any disciplinary proceedings as against the petitioner within a period of one month from date. In the event, the employer decides to initiate disciplinary proceedings as against the petitioner the same shall be initiated within two months from date. The disciplinary proceedings if initiated should be concluded by 30th September, 2022, following the extant rules, principle of natural justice and affording the petitioner a reasonable opportunity of hearing. The petitioner shall be paid subsistence allowance computed on the basis of 50% of his last paid salary along with prevailing Dearness Allowance (in short, DA) in terms of the extant rules governing the petitioner's service as submitted by the parties. In the event, the employer decides not to initiate any disciplinary proceedings as against the petitioner then the suspension order shall automatically stand revoked on expiry of one month from date and in that event, the petitioner will be reinstated in service with all back wages and emoluments.

So far as the subsistence allowance for the period between 22nd September, 2017 and 30th October, 2021, the employer has already made over a cheque of Rs.5,52,702.78 to the petitioner on 7th October, 2021.

This amount according to the employer is not in terms of the applicable rules as the DA in such calculation is only @ 50% of the prevailing DA whereas the petitioner is entitled to get the full amount of prevailing DA as per applicable rules. The respondent has prepared a cheque for an amount of Rs.2,03,989.98, being the balance 50% of the DA for the period 27th September, 2021 to 30th October, 2021. The said cheque bearing no.455167 dated 9th November, 2021 drawn on Punjab National Bank, Garden Reach Branch, Kolkata is made over to the advocate for the petitioner which is accepted by the said advocate without prejudice to the rights and contentions of the petitioner. The subsistence allowance for the month of October, 2021 and November, 2021 shall be paid within 7th December, 2021 and thereafter shall be paid month by month by 7th of each successive month for which the same falls due.

The difference in subsistence allowance, along with any interest for delayed payment thereof, if any, shall be considered once a decision regarding the initiation of disciplinary proceedings is taken or if the same is initiated, then at the completion of the disciplinary proceedings.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavit, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)