

S/L No.45

(Through Video Conference)

01.07.2021
Ct-16
(AD & Dd)

WPST 53 of 2020

With

IA No.:CAN 1 of 2020 (Old No:CAN 3219 of 2020)

With

IA No.:CAN 2 of 2020 (Old No:CAN 3220 of 2020)

With

IA No.:CAN 3 of 2020 (Old No:CAN 4776 of 2020)

Sri Kamal Kant Jha

vs.

The State of West Bengal & Ors.

Mr. Rohit Banerjee

... for the petitioner

Mr. Swapan Kumar Dutta, Sr. Adv.

Mr. Dipankar Das Gupta

... for the State respondents.

The writ petitioner is aggrieved by the order passed by the West Bengal Administrative Tribunal on 25th February, 2020 in connection with O.A. No.91 of 2019 filed by the writ petitioner praying, *inter alia*, for cancellation of the impugned order dated 1st November, 2018 passed by the respondent no.3 terminating his service.

Record reveals that he was appointed initially on contractual basis for a period of one year at a consolidated pay. However, the said service was continued from time to time and by reason of the memorandum dated 16th September, 2011, he was entitled to certain protection which, *inter alia*, include

that he would continue to function in terms of his initial appointment till he attains the age of 60. The said memorandum also extends certain benefits after successful completion of 60 years of service.

In view of the fact that the said circular deals with contractual workers which admittedly the petitioner is by reason of his initial appointment, could be disengaged or terminated if he is found to be involved in criminal case/misconduct/delinquency/incapacitation or if the concerned workers intends to opt out of the engagement of his or her own.

It appears that on the basis of a complaint by the Superintendent, Caretaker and other staff of St. David Central Hostel, Kolkata against the petitioner, a show-cause notice was issued to him alleging negligence in performing hostel duty, misconduct and criminal behaviour. The reply was not found to be satisfactory. As a result whereof, a disciplinary proceeding was initiated. On the basis of the materials-on-record and having regard to the fact that a criminal proceeding was pending, the District Welfare Officer terminated the service of the petitioner. The order with reasons mentioned in the impugned order dated 1st November, 2018 is a detailed one and any judicial review of such order, the Court would be extremely chary to interfere with the order passed by the authority concerned unless

it appears to be *mala fide*, perverse or in violation of the principles of natural justice.

It is being argued before us that the District Welfare Officer could not have decided the said matter as he was a person interested in the said matter. Firstly, the memorandum does not specifically make the service of the petitioner to be governed by West Bengal (CCA) Rules, 1971 that may be applicable to a regular employee as opposed to the status of the present employee. Nonetheless when the service of an employee is to be terminated in terms of Clause XI of the memorandum it has to be in accordance with the principles of natural justice and it cannot be at the *ipsi dixit* of the authority concerned. In the instant case, the principles of natural justice has been followed and on the basis of the materials-on-record, the service of the petitioner was terminated. It is not in dispute that he was involved in a criminal matter which is one of the grounds on the basis of which the service of an employee can be terminated.

On such consideration, we do not find any reason to interfere with the order passed by the learned Tribunal.

The application accordingly stands dismissed. All connected applications are accordingly also stand dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)