

19.07.2021
Sl. No.10
srm

W.P.A. No. 11082 of 2021

Puspita Siddhanta

Vs.

The State of West Bengal & Ors.

Ms. Santi Das

...for the Petitioner.

Mr. Anirban Roy, Id. GP,

Mr. Raja Saha,

Mr. Biswabrata Basu Mullick

...for the State.

Mr. Billwadal Bhattacharyya,

Mr. Anish Kumar Mukherjee

...for the Contai Co-operative Bank.

Affidavit-of-service is taken on record.

The writ petition has been filed challenging an order of punishment dated April 30, 2021 issued by the Secretary, Contai Co-operative Bank Ltd.

The contention of the petitioner is that the petitioner was not given a proper opportunity of being heard. Reliance is placed on a letter dated April 6, 2021 issued by the enquiry officer. It appears that the enquiry officer appointed by the bank was an advocate. Accordingly, the petitioner prayed for being allowed to be represented by an advocate as per the Rules. The enquiry officer allowed the petitioner to seek assistance of an advocate with a condition that the advocate shall not be entitled to make any submission before the

enquiry officer. This condition was written by the enquiry officer on the request of the petitioner for allowing her to have Advocate's representation. The petitioner did not attend the meeting on the date fixed by the enquiry officer and the enquiry officer issued another letter dated April 17, 2021 asking the petitioner to appear for hearing on that day at 4.00 p.m., failing which, an incomplete report would be submitted to the Secretary of the Bank alleging non-cooperation by the petitioner.

It appears from the records that an enquiry report was submitted before the Secretary of the Bank on April 19, 2021 although the petitioner did not participate in the proceedings. The reason for the petitioner not having participated was the condition imposed by the enquiry officer that the petitioner's advocate shall not be allowed to make any submission in the disciplinary proceeding.

In my opinion, the order of punishment was passed in violation of the principles of natural justice. The enquiry was conducted in violation of the principles of natural justice. The Rules prescribe that the delinquent may engage a lawyer for being represented before the enquiry officer. I do not find any reason as to why the enquiry officer had imposed a restriction upon the petitioner, thereby indicating that the advocate of the petitioner shall not be allowed to make any submission before

the enquiry officer, especially when the enquiry officer himself was a learned Advocate.

Accordingly, the order of punishment impugned before this Court and the orders/letters issued by the erstwhile enquiry officer are set aside and quashed.

The Bank is granted liberty to proceed *de novo* from the stage of appointing an enquiry officer as the Court finds that the erstwhile enquiry officer has not acted and proceeded in accordance with law.

Mr. Billwadal Bhattacharya, learned Advocate appearing on behalf of the Bank, submits that the Bank is willing to proceed afresh, without giving any effect to the earlier order of punishment. He further submits that the order passed by this Court on an earlier occasion with regard to the payment of salary has been and will be complied with by the Bank.

All documents relied upon by the Bank in the disciplinary proceeding including the fact finding report shall be supplied to the petitioner in accordance with law, if not already supplied. The fact finding report finds mention in the order impugned.

This Court has not gone into the merits of the charges and the disciplinary authority is entitled to proceed in accordance with law.

As the petitioner is on the verge of retirement, the disciplinary authority should complete the proceeding mandatorily within a period of six months from the date of communication of this order

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)