

16.11.2021
Ct. no.04
rpan /03

WPCT 74 of 2021
Union of India & Others
– Versus –
Tridib Kumar Mahapatra

Mr. Rabindra Nath Bag,
Mr. Deepak Kumar Singh
... for the petitioners.
Mr. Sudip Krishna Dutta,
Mr. Arpa Chakraborty
Mr. Ujjal Roy
... for the respondent.

The present writ petition has been preferred by the Union of India and its functionaries challenging the learned Tribunal's order dated 12th April, 2021 by which five original applications, being O.A.831 of 2020, O.A.832 of 2020, O.A.833 of 2020, O.A.891 of 2020 and O.A.892 of 2020 were disposed of as the applicants in the said applications prayed for identical reliefs.

Records reveal that the respondent herein was removed from service by an order dated 3rd November, 2018. The appeal preferred against the same was dismissed on 12th April, 2019 by the appellate authority. The revision preferred was also disposed of by an order dated 11th August, 2020 setting aside the appellate authority's order dated 12th April, 2019 and directing the said authority to dispose of the appeal preferred by Tridib Kumar Mahapatra *'afresh holding inquiry following the proper procedure of The Railway Servants*

(Discipline & Appeal) Rules, 1968 as amended from time to time’.

The respondent thereafter preferred the original application, being OA-832 of 2020 *inter alia* praying for setting aside the order of the disciplinary authority dated 3rd November, 2018 and for his reinstatement upon modification of the revision order dated 11th August, 2020. The learned Tribunal by the order dated 12th April, 2021 quashed the orders impugned therein and granted liberty to the petitioners herein to act strictly in accordance with law observing *inter alia* that :

‘In the present case when the applicant was removed from service without enquiry and no case for further enquiry was made out as no enquiry was held. As such, the Revising Authority could not have remitted the matter to the Appellate Authority for a further enquiry, rather it ought to have remitted it back to the Disciplinary Authority after quashing the penalty order of removal from service with a direction to conduct a fresh enquiry in terms of Railway Servants (Discipline & Appeal) Rules.’

Challenging the said order also passed in the original application, being OA-831 of 2020, the petitioners herein preferred a writ petition, being WPCT 48 of 2021. A coordinate Bench of this Court did not interfere with the order passed by the learned Tribunal and disposed of the same by an order dated 6th November, 2021.

Mr. Bag, learned advocate appearing for the petitioners reiterates the arguments, as advanced before the coordinate Bench of this Court at the time of hearing of the writ petition, being WPCT 48 of 2021.

Mr. Dutta, learned advocate appearing for the respondent herein submits that in compliance of the order dated 6th September, 2021 passed in WPCT 48 of 2021, the applicant in OA-831 of 2021 had been reinstated to the post of L.P.(Passenger)/KGP by issuing an order dated 8th November, 2021. Let a copy of the order passed by the coordinate Bench and the memo dated 8th November, 2021, as produced, be kept on record.

The coordinate Bench of this Court had meticulously dealt with the issues involved and disposed of the writ petition, WPCT 48 of 2021 affirming the order passed by the learned Tribunal and observing *inter alia* :

‘But it is needless to mention that the order of removal has been set aside. He needs to be reinstated in his service but whether he should be allowed to discharge his function regularly or to be kept under suspension is for the authority to decide.’

Judicial propriety demands that the findings arrived at on the rudiments of similar facts by a Coordinate Bench should be given respect and should be followed. It also appears that the petitioners herein had already complied with the order dated 6th September,

2021 passed in WPCT 48 of 2021 and had issued a memo dated 8th November, 2021 reinstating the applicant in OA-831 of 2020.

In view thereof, no interference is called for in the present writ petition. The order dated 12th April, 2021 passed by the learned Tribunal is affirmed and the petitioners herein are directed to take necessary follow up steps, as already taken in respect of the applicant in OA-831 of 2020.

With the above observations and directions the writ petition, being WPCT 74 of 2021 is disposed of.

There shall, however, be no order as to costs.

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

(Sugato Majumdar, J.) (Tapabrata Chakraborty, J.)