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06.12.2021
Ct. No.23
(NB)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19065 of 2021

Dipankar Pramanik
Vs.
Union of India & Ors.

Mr. Maidul Islam Kayal,
Mr. Asraf Mandal.

...for the petitioner.

Mr. P. Bajpayee.

... for the respondents.

Affidavit of service filed in Court today is taken on record.

In a disciplinary proceeding against the petitioner, an order was passed on 19th April, 2021. The petitioner has preferred a statutory appeal against the said order. The petitioner says that the statutory appeal has not yet to be disposed of though three months period from the filing of the same for disposing of an appeal as the applicable service rules have elapsed in between. The petitioner, therefor, prays that the Appellate Authority be directed to dispose of the petitioner's appeal within a timeframe.

On behalf of the respondents, it is submitted that the entire cause of action which culminated into the disciplinary proceedings has taken place at Tripura wherein the petitioner was posted as a part of the 74 Battalion (in short BN). The said battalion being the 74 BN of the Border Security Force has now

merged with Gujrat battalion and is now a part of Gujrat Battalion. According to the respondents, the Appellate Authority pursuant to the merger of 74 BN has also changed.

Be that, as it may, the fact remains that the statutory appeal preferred by the petitioner prior merger of this battalion has not yet been disposed of. The petitioner, therefor, prays that this Court should pass a direction for disposal of the statutory appeal. It is also correct that the statutory appeal is required to be disposed of.

The respondents point out that the petitioner is a resident of district Nadia but all the respondents have their respective offices outside West Bengal and as such this Court does not possess the jurisdiction to receive, try and determine the writ petition.

After hearing the parties and considering the materials on record, I find justice will be subserved if the Appellate Authority in respect of the petitioner is directed to dispose of the petitioner's Statutory appeal within twelve weeks from date after affording the petitioner an opportunity to represent his case.

The Appellate order should be communicated immediately to the petitioner after being passed. It is made clear that while giving directions for disposal of the statutory appeal within a timeframe, I have not gone into the merits of the matter and the Appellate Authority shall be free to decide the same independently, in accordance with law.

It is further made clear that the direction given by this order will not confer any jurisdiction upon this Court in any subsequent

challenge to the order of the Appellate Authority on the ground that the present writ petition has been entertained by this Court if it is demonstrated in the subsequent proceedings that this Court lacks territorial jurisdiction in the matter.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

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

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

(Arindam Mukherjee, J.)