

21.09.2021  
Sl. No.57  
akd

***Calcutta High Court  
In the Circuit Bench at Jalpaiguri  
Appellate Jurisdiction***

**W.P.A. 976 of 2021** [via video conference]

***[Goutam Roy -Vs- The State of West Bengal & Ors.]***

Mr. Nabankur Paul  
... .. for the petitioner

Mr. Deborshi Dhar  
... for DPSC, Cooch Behar

Mr. Hirak Barman  
Mr. Momenur Rahman  
... .. for the State

The writ petitioner is a primary teacher at Pran Majumdar State Plan Primary School, Haldibari, Cooch Behar.

The writ petitioner is aggrieved by order dated 31<sup>st</sup> August, 2016 by which a request for review of his suspension was declined. It appears that Haldibari Police Station Case No. 181 of 2013 dated 02.09.2013 was registered against the writ petitioner for offences under Sections 440/326A/34 of the Indian Penal Code.

Since the petitioner was in custody for more than 48 hours, he was suspended from service. Admittedly, the offences alleged against the writ petitioner have been committed completely outside the scope of employment.

The writ petitioner approached this court by way of W.P. 14267(W) of 2015 which has been disposed of by order dated 13<sup>th</sup> July, 2015 by a coordinate Bench

directing the respondents to review the order of suspension. The impugned order was passed thereafter.

It appears to this court that the writ petitioner is being allowed advantage of a wrong alleged against. The writ petitioner, post suspension, is in all probabilities getting full salary and allowances from six months after the date of suspension. The trial has not commenced and/or is proceeding at a snail pace. The State is required to pay monthly salary to the petitioner without obtaining any work from him. This Court is of the view that the same constitutes a serious loss to the State. The District Primary School Council, Cooch Behar should have been more pragmatic in their approach. No departmental proceedings can be instituted against the writ petitioner since the acts complained of and pending in criminal proceedings have occurred outside the scope of employment. Criminal case has already gone on till entirety and the petitioner is being paid monthly dole in the form of salary for about six years since 2<sup>nd</sup> June, 2015, out of the taxpayers funds

The order of suspension against the petitioner shall, therefore, stand revoked forthwith.

The petitioner shall be permitted to join his post as an Assistant Teacher by the District Primary School Council, Cooch Behar. It is however, made clear that the District Primary School Council, Cooch Behar shall be entitled to post the petitioner at any place of their choice and the petitioner shall accept the same unconditionally without demur or protest.

Needless to mention, in the event of any conviction, the writ petitioner shall stand dismissed from service with effect from 15<sup>th</sup> February, 2015.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties are to act on a server copy of this order duly downloaded from the official website of this court.

***(Rajasekhar Mantha, J.)***