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Ct. No.23
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2308 of 2022

Alamgir Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Partha Chakraborty
Ms. Sharmistha China
... For the petitioner

The petitioner was engaged as a Civil Volunteer on 23rd January, 2014. Pursuant to such engagement, the petitioner was regularly assigned duties at Tapan Police Station and subsequently at Varila Camp. The petitioner's wife initiated a criminal case which was registered as Tapan Police Station Case No.408 of 2021 dated 1st November, 2021 under Sections 498A/383/494/34 of the Indian Penal Code, 1860. The petitioner says that he surrendered and obtained bail on 16th November, 2021. The petitioner further says that after being enlarged on bail, the petitioner has been demobilised without assigning any reason.

The petitioner says that a reason ought to have been assigned while demobilising the petitioner. The petitioner also cites an order dated 26th September, 2019 passed in WP No.18598 (W) of 2019 (Nilratan Halder v. The State of West Bengal & Ors.) and prays for his representation to be re-engaged after obtaining bail to be considered.

The facts of the case in Nilratan Halder (supra) do not fit in to the instant case. In the said case, the petitioner (Nilratan Halder) was discharged from the criminal case and after being discharged, he applied to the Superintendent of Police, Sundarban Police, District – South 24-Parganas, for re-engagement. The learned Single Judge in the case of Nilratan Halder (supra) taking note of the fact that Nilratan Halder was discharged from the criminal case, directed the Superintendent of Police, Sundarban Police, District – South 24-Parganas, to consider the petitioner's prayer for re-engagement.

In the instant case, the criminal case is continuing. The criminal case is instituted at the same police station, i.e., Tapan Police Station, wherein the petitioner was engaged. The employer, in view of such criminal case, is likely to lose confidence in the petitioner who being engaged as a Civic Volunteer is to assist the police force. Apart from that the petitioner being engaged in Tapan Police Station if allowed to continue over there may be in a position to influence the investigation and tamper the evidence, if possible. That apart, the petitioner while engaged in a post which is not civil in nature as held in Nilratan Halder (supra) does not have the protection of Article 309 of the Constitution or any subordinate legislation.

In the above facts and circumstances and keeping in mind that the criminal case is pending against the

petitioner and he never held a civil post, I do not find any merit in the petitioner's case even to direct his representation to be considered or reasons for his demobilisation to be given. Moreover, the petitioner has not been able to show any guideline or conditions of service under which the petitioner after having been implicated in a criminal case which is pending and the petitioner having been enlarged on bail is entitled to a show cause or any reason to be assigned before being demobilised.

The writ petition is, accordingly, dismissed, however, without any order as to costs.

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

(Arindam Mukherjee, J.)