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13.12.2022
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 7194 of 2022

**Sadananda Dutta
-versus
The State of West Bengal & Ors.**

**Mr. Rabi Sankar Chattopadhyay,
Mr. Kaustav Sen.
...For the Petitioner.**

**Mr. Biswajit De,
Mr. Ganga Prasad Mukherjee.
...For the State.**

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

The petitioner was an employee of Memari Municipality. He was put under suspension in April 2012. The suspension order stood withdrawn on 22nd August, 2014 by imposing punishment upon the petitioner.

The order dated 22nd August, 2014 records that the petitioner was placed under suspension for serious misconduct of theft and departmental proceeding was initiated. He was given an opportunity of hearing and the enquiry officer forwarded the report of enquiry to the petitioner. The Board of Councillors took a decision that punishment may be imposed upon the employee for negligence and misconduct under the municipal service rules.

The petitioner was found guilty of the offence and punishment was imposed to the extent of reduction of three increments from his scale of pay. He was thereafter, directed to join office.

The petitioner in compliance of the order dated 22nd August, 2014 rejoined the previous post on 27th August, 2014 and continued his service.

The criminal proceeding which was pending against the petitioner stood disposed of by the Court on 5th April, 2018. FRT was submitted and the petitioner was discharged from the case.

In March 2022, the petitioner filed representation before the Municipality praying for withdrawal/ cancellation/ setting aside the punishment imposed upon him.

Prayer has been made for consideration of the said representation as the criminal proceeding initiated against the petitioner stood dismissed.

The Court is of the opinion that the order of punishment passed way back in August 2014 has already attained finality and has been accepted by the petitioner without any objection by rejoining his previous designation immediately after the order was passed.

Had the petitioner been continuously aggrieved by the order of punishment he ought to have taken appropriate steps immediately thereafter. The explanation given by the petitioner for the delay in approaching this Court challenging the imposition of

punishment on the ground of his ill-health and financial constraints is not accepted by the Court.

In service jurisprudence it is settled law that the criminal proceeding and disciplinary proceeding may continue independently and simultaneously.

In the present case, the disciplinary proceeding resulted in an order of punishment duly acted upon by the parties. The said punishment is not liable to be reviewed on account of the dismissal of the criminal proceeding.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)