

01.
24.11.2022
S.D.

W.P.A. 6048 of 2020

**Sri Ram Pravesh Prasad
Vs.
The Union of India & Ors.**

Mr. Achin Majumdar

..For the Petitioner

Mr. Partha Ghosh

..For the Respondents

Supplementary affidavit filed in Court today be retained with the record.

In this writ petition, the second charge sheet dated June 24, 2022 has been challenged. The petitioner was an Inspector with the Railway Protection Force (in short, R.P.F., Eastern Railway). An initial charge sheet was framed against the petitioner on November 18, 2019 and the petitioner submitted a detailed reply to the same. Thereafter, the disciplinary authority dropped the said charge sheet by an order dated January 24, 2020. On the selfsame cause of action, second charge sheet was framed on June 24, 2022 by the Senior Divisional Security Commissioner, R.P.F.

Mr. Majumdar, learned counsel appearing on behalf of the petitioner submits that the second, fresh charge sheet on selfsame and identical allegation could not have been framed

without assigning reasons for the same. Therefore, the second charge sheet was drawn pursuant to illegal and arbitrary exercise of power and the same should be vitiated. Furthermore, he submits that the order of the disciplinary authority dated July 13, 2022 should also be set aside and/or cancelled. He relies on a Division Bench judgment of this Hon'ble Court dated August 19, 2009 passed in W.P.C.T. 210 of 2008 in support of his contention that it is not illegally permissible to withdraw the first charge sheet and issue a second charge sheet without sufficient reasons.

Mr. Ghosh, learned counsel appearing on behalf of the respondents submits that since reasons were accorded for withdrawal of the first charge sheet and issuance of the second charge sheet, the same was not vitiated. Furthermore, the second charge sheet was not identical to the first charge sheet. The petitioner has participated in the entire disciplinary proceedings. The final order has already been passed by the disciplinary authority, but the same was not issued, showing deference to this Court being in *seisin* of the matter.

He further submits that the petitioner is due to retire on November 30, 2022 and the charges against him are serious. In the event, the order passed by the disciplinary authority is not issued within November 30, 2022, the said order will

become infructuous given the position in law that no delinquent employee can be handed over an order of penalty/punishment by the employer post retirement.

From the supplementary affidavit filed in Court today this Court finds that sufficient reasons have been given by the Assistant Security Commissioner by way of a letter dated January 24, 2020 to the Senior Divisional Security Officer for withdrawal of 1st charge sheet and issuance of the 2nd one.

In the light of the discussions above, this Court finds no reason to quash and/or set aside the second charge sheet dated June 24, 2022 on the ground that no legally tenable reasons were accorded for issuance of the second charge sheet.

The writ petition being **W.P.A. 6048 of 2022** is **dismissed** without any order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance with all the formalities.

(Lapita Banerji, J.)

