

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :

THE HON'BLE JUSTICE PARTHA SARATHI SEN

W.P.A. No. 10733 of 2021

Piyali Sarkar
Vs
The Union Of India & Ors.

For the Petitioner	: Mr.Riju Ghosh, Adv.
	: Mr. Sumitava Chakraborty,Adv.
	: Mr. Bijoy Bag, Adv.
For respondents	: Mr. Bhudeb Chatterjee, Adv.

Last Heard on: : 30.11.2022

Judgment on: : 02.12.2022

Partha Sarathi Sen, J. : –

1. The writ petitioner being a lady constable of CISF in this writ petition has challenged the vires of her transfer order dated 04.01.2020, her order of suspension dated 07.01.2020, the memo of charge framed as framed on 19.03.2020, against her, the Enquiry Report dated 09.05.2020 wherein she was found negligent and indisciplined, the final order dated 23.06.2020 whereby she was punished of reduction of pay and stoppage of increment and the decision of Appellate Authority dated 04.08.2020 on the ground of violation of natural justice and infringement of her Fundamental Right.

2. It is the case of the writ petitioner that on 26.12.2019, she had submitted a representation before her superior not to transfer her on account of her obligation towards her family. However, without considering such representation, the respondents being her superior transferred her from Durgapur to New Delhi by issuing an office order dated 04.01.2020. It is the further case of the writ petitioner that on the very same day i.e. on 04.01.2020, she submitted another representation and even that was not entertained and on the contrary the respondents on 07.01.2020 put her in suspension. It has been stated that on 19.03.2020 a memo of charge has been framed, thereafter a perfunctory enquiry was conducted and on completion of the same, final order dated 23.06.2020 was passed whereby and whereunder she was imposed penalty and challenging the said final order she preferred an appeal before the Appellate Authority which was also turned down by the Appellate Authority on 04.08.2020.

3. On perusal of the entire materials as placed before this Court and after hearing the learned advocates of both sides, it reveals to this court that it is the consistent view of the Enquiry Authority and the Appellate Authority that even after obtaining movement order, the present writ petitioner did not proceed to her place of duty i.e. at New Delhi and on the contrary she stayed in her government family quarter at Durgapur without taking prior approval of her superior. This Court sitting in writ jurisdiction cannot interfere with such factual findings of the Enquiry Officer as well as the Appellate Authority. In course of hearing, nothing could be placed on behalf of the writ petitioner to

substantiate that serious miscarriage of justice occurred in course of the enquiry as well as in the process of decision making both by the Enquiry Officer as well as by the Appellate Authority. From the materials as placed before this Court, it reveals that before the Enquiry Officer as well as the Appellate Authority and also before this Court the writ petitioner has taken a stand that since her representations have not been considered, the decision of her superior as mentioned hereinabove are violaitve of natural justice and the same tantamounts to infringement of her Fundamental Rights.

4. In considered view of this Court the plea taken by the writ petitioner is not tenable. The writ petitioner being a member of a disciplined service must know that submission of representation(s) does not give her any right to disobey the order of her superior. This Court thus considers that the finding of the Enquiry Authority as well as the Appellate Authority that the present writ petitioner's conduct tantamount to gross miscarriage and indiscipline is perfectly justified and this Court thus finds no reason to interfere with the same. Accordingly, the instant writ petition is dismissed.

5. Urgent Photostat Certified copy of this judgment, if applied for, be supplied to the parties expeditiously after complying with all necessary legal formalities.

(Partha Sarathi Sen, J.)