

05.07.2022
Sl. No.51(ML)
srm

W.P.A. No. 10140 of 2022

Dilip Kumar Halder

Versus

The State of West Bengal & Ors.

Mr. Subhajit Panja

...for the Petitioner.

Mrs. Sudipa Roy,

Mr. Srinath Singha Roy

...for the State-respondents.

Mr. Srijan Nahak,

Mr. Biplab Das,

Mr. Ankit Sengupta

...for the Respondent Nos.2 & 3.

Mr. Soumyadeep Biswas

...for the Respondent Nos.4 & 5.

Affidavit-of-service is taken on record.

The petitioner has challenged a show cause notice issued by the respondent No.5. The petitioner was asked to show cause why proceedings shall not be initiated for concealment of facts and for wilful insubordination. The allegation is that the Nadia District Central Cooperative Bank Limited (present employer), *prima facie*, came to the conclusion that the 'no due' certificate, which was furnished by the petitioner from the erstwhile employer/the respondent No.6, namely Mamjoan "o"

Hatisala Gram Panchayat Samabay Krisi Unnayan Samity Ltd., was an act of deceit and undue influence. That the petitioner had played fraud upon the erstwhile employer and had also committed certain irregularities while applying for an appointment before the present employer. The petitioner seeks confirmation of his service upon expiry of the probation period.

Having heard the learned Counsels for the respective parties, this Court is of the view that at this stage, the prayer of the petitioner for confirmation of his service under the present employer, cannot be permitted. The petitioner continues to be on probation.

It appears that the present employer has already issued notices to the petitioner. The petitioner shall answer the same and the matter shall be decided on the basis of what transpires during the proceedings. Upon conclusion thereof, an order shall be passed by the present employer. The issue of confirmation shall be decided on the basis of the outcome of the proceeding.

The law is well settled, that a probationer can be terminated without any reasons, if his service is unsatisfactory. However, the law mandates that if the allegations against the probationer are stigmatic, in that case the employer is required to grant an opportunity to

the employee to defend such allegations and rules of natural justice are to be followed.

Accordingly, the present employer issued a show cause notice to the petitioner. The petitioner has been asked to submit his reply. The petitioner has replied to the same. Being dissatisfied with the reply of the petitioner, the respondent No.5 again issued a show cause notice. Now, the authority is required to take a final decision as to whether the petitioner should be confirmed or not.

As the petitioner continues to be in probation, his present status shall not be disturbed, till the decision is arrived at by the present employer.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)