

08.12.2022
Item No. 45
Crt.No.11
b.r.

MAT 903 of 2022
with
IA No. CAN 1 of 2022

Sri Abhijit Kumar Talapatra
-vs-
The State of West Bengal & Ors.

Mr. Debasish Saha
Mr. Moniruzzaman
..... For the appellant.

Mr. Santanu Kumar Mitra
Mr. Amartya Pal
..... for the WBSU.

Mr. Swapan Kumarm Datta
Mr. Tapas Kumar Dey
..... for the State.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Under challenge in this appeal is the Judgement and Order of the Hon'ble Single Bench dated 8th of June, 2022 in two Writ Petitions, being WPA 9813 of 2018 and WPA 3508 of 2022, along with their connected applications. In both the writ petitions, the West Bengal State University (for short, the University) was impleaded as the contesting respondent.

The subject matter of challenge in this writ petition relates to the conduct of the Disciplinary Proceeding (for short, the *DP*) instituted by the University against the writ petitioner, who was then

working as the Controller of Examinations of the University. Several charges connected to the misconduct of the writ petitioner/the present appellant were brought against him.

It would be relevant at this point of discussion to notice the Judgement and Order of the Hon'ble Single Bench, which is impugned herein. The Hon'ble Single Bench was, *inter alia*, pleased to record that at the sixth hearing in the *DP*, the present appellant/the writ petitioner by a Letter Dated 8th of March, 2018 acknowledged his guilt in respect of all the charges. Thereafter, by a Letter Dated 21st March, 2018, the appellant reiterated his plea of guilt to all the charges unconditionally and without any coercion.

Mr. Mitra, Leaned Counsel appearing for the University, takes this Court to the proceedings of the *DP* dated 21st of March, 2018 which, *inter alia*, record as follows:-

“ On 0803.2018, Sri Abhijit Kumar Talapatra, Charged Officer pleaded guilty to all the charges levelled against him vide Charge Sheet No. WBSU/VC/1021/17 dated 31.07.2017 unconditionally before the Enquiry Officer. His pleading of guilt and acceptance of charge was recorded in the enquiry proceedings but he was given one further chance to reconsider his decision.

Today, i.e. 21.03.2018 Sri Abhijit Kumar Talapara (Charged Officer) attended the enquiry and once again pleaded guilty to all the charges unconditionally assuming full moral responsibilities to the matters as described in details in the charge sheet. The charged officer has also given a written declaration on the score which is kept in the file (Marked X-5).

Considering the entire episode, I as an Enquiry Officer, find that pleading of guilt unconditionally by Sri Abhijit Kumar Talapatra (Charged Officer) is totally voluntary, and without any coercion or provocation. Therefore, I accept the plea of the charged officer and his plea of acceptance of guilt unconditionally is being accepted.

Formal enquiry closed to-day. Findings would be submitted shortly.

Also, taking this Court to the proceedings of the DP held on 8th of March, 2018, Mr. Mitra points out that the plea of guilt taken by the present appellant/the writ petitioner stood recorded in the following words :-

“ Sri A.K. Talapatra, Charged Officer pleaded guilty unconditionally before the Enquiry Officer and also submitted his plea of guilt in writing addressed to the Enquiry Officer which is placed in the file (marked X-4). In his submission dated 08.03.2018 the Charged Officer not only pleaded guilty

to all the charges levelled against him unconditionally but also expressed his desire to resign from the service of the WBSU. In this connection, the Enquiry Officer examined the entire situation and:

- (i) The Charged Officer was asked to reconsider his pleading of guilt as abandoned caution.*
- (ii) The consequence of pleading guilt was explained to the charged officer in details. The charged officer was told that, if his pleading of guilty is accepted, all the charges levelled against him to be considered duly established in the enquiry. On establishment of charges, the disciplinary authority may issue suitable punishment against him.*
- (iii) So far as the resignation is concerned, the Enquiry Officer clearly told to the charges officer that, he may submit his formal resignation letter to his appointing authority only. The enquiry or the Enquiry Officer has no role on consideration on the matter of his resignation.*

The charged officer still sticks to his decision of pleading guilty unconditionally. However, his letter of pleading guilt dated 08.03.2018 is kept in the file without taking any

final decision by the Enquiry Officer. The charged officer was once again advised to rethink the issue and to submit his considered final decision on 14th March, 2018 (i.e. after five days) before the Enquiry officer. If the charged officer against pleads guilty on the next date, the same would be accepted.”

It is submitted by Mr. Mitra that the plea of guilt taken by the present appellant/the writ petitioner was therefore not accepted automatically and the appellant was called to re-consider his prayer to plead guilty. The appellant subsequently pleaded guilty again in writing and such was accepted by the Enquiry Officer. The ratio of the unreported decision of the Bombay High Court in *Writ Petition No. 2296 of 2002* squarely applies to the facts of this case and there is no contrary evidence to show that the plea of guilt taken by the appellant was not voluntarily made or, made in a situation where the appellant had lost his mental balance and was therefore unfit to make such prayer.

Mr. Saha, Learned Counsel appearing for the appellant/the writ petitioner, refers to the claim of mental disorder raised by the appellant as a reason for the appellant offering to plead guilty. Mr. Saha makes the next argument that the appellant had merely expressed moral responsibility for the acts and such

admission is not proof of any actual culpability in the acts complained of in the charge-sheet.

To the mind of this Court, the plea of mental disorder taken by the appellant to evade the acceptance of guilt expressed by him in the *DP* and the subsequent prayer of owning up to moral responsibility for the alleged acts of omission and commission raised in the charge sheet, stand contradictory to each other.

From the record, it would be evident that the appellant was granted the opportunity to reconsider his prayer for accepting guilt by the Enquiry Officer. The appellant was also explained the consequence of accepting his guilt.

From the correspondence of the appellant dated 8th March, 2018 and the 21st of March, 2018, which has been discussed by the Hon'ble Single Bench in the order impugned, as well as the records of the *DP* which have been extracted above in this discussion, the argument of Mr. Saha that the plea of guilt taken by the appellant be only restricted to his moral responsibility towards commission of the alleged offences, is not sound and hence cannot be accepted.

Mr. Datta, Learned Additional Government Pleader, brings to the notice of this Court the Provisions of Section 58 of the Evidence Act. It is

argued that documents which are admitted do not require to be formally proved.

The stand taken by Learned Additional Government Pleader is worthy of acceptance since it does not appear from the record that the appellant has retracted from the plea of guilt as stated through his communication dated 8th of March, 2018 and 21st of March, 2018.

In view of the above discussion, this Court finds no reason not to agree with the findings of the Hon'ble Single Bench *vide* the Judgement and Order dated 8th of June, 2022.

Accordingly, the Judgement and Order dated 8th of June, 2022 stands affirmed.

MAT 903 of 2022 with IA No. CAN 1 of 2022 stand accordingly **dismissed**.

Interim order, if any, stands vacated.

Parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

(Supratim Bhattacharyya, J.) (Subrata Talukdar, J.)