

S/L 9
22.08.2022
Court. No. 19
GB

WPA 14352 of 2021

Mozammel Sk. @ Mozammel Haque
VS
The State of West Bengal & Ors.

*Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee.*

...for the Petitioner.

*Mr. Jahar Datta,
Mr. Jaladhi Das.*

...for the State.

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

The petitioner's specific challenge is that he was not being allowed to join the services of the co-operative society. The petitioner claims to be an employee of Goghata Samabay Krishi Unnayan Samity Limited. It is the specific contention of the petitioner that the employer, without initiating any disciplinary proceeding, had restrained the petitioner from joining the services. It is the specific contention that the employer had not exercised the right of suspension. Thus, it is alleged that in the absence of any order of suspension and in the absence of any disciplinary proceeding, the petitioner could not have been restrained from attending his office.

The learned advocate for the State respondents submits that on the complaint received from the Chairman, Murshidabad District Central Co-operative Bank Limited, dated March 11, 2021 against the petitioner and some others with regard to defalcation and misappropriation of government money amounting to over Rs.56,00,000/-, the petitioner had been arrested and he was in custody. The

petitioner was granted bail sometime in June, 2021. In view of such serious allegations, the petitioner should not be allowed to join his duty.

It is the specific contention of the petitioner that since bail had been granted, the petitioner made several attempts to join his office, but without initiating a disciplinary proceeding or at least without suspending the petitioner, the petitioner could not have been restrained from joining his work.

There is no dispute with the proposition that an employer can proceed against an employee as per the service rules at anytime, by initiating a disciplinary proceeding and also by suspending the employee in contemplation of a disciplinary proceeding. There are grave allegations against the petitioner, which is the subject matter of an investigation of Nowda Police Station Case No.72 of 2021, The records do not reveal what steps have been taken after the petitioner was released on bail by the employer. The society is not before the court, despite service. The fact that the petitioner was in custody is also not disputed.

Under such circumstances, the petitioner is granted liberty to file a representation before the registrar of the Co-operative Society, Department of Coopertation, West Bengal with his grievances. If such approach is made, the same shall be disposed of in accordance with law.

This order shall not be construed as an opinion of the Court with regard to the merits of the allegation or with regard to the right of the petitioner to join the services. All

the issues will be decided in accordance with law. Such approach shall be made within a week from date and the registrar of Co-operative Society will decide the issue within a period of four weeks thereafter, upon hearing all the interested parties. A reasoned order shall be passed and communicated.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)