

20.01.2022
Court No. 19
Item no.11
sn

WPA 14460 of 2021

Md. Akhtrauzzaman
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Sarwar Jahan
Mr. Binay Shaw ... for the Petitioner

Ms. Kakali Samajpati
Ms. Sudipa Samanta ..for the State

The petitioner was engaged as a Village Level Data-Entry Entrepreneur(VLE) at Kedarchandpur-II Gram Panchayat. On the allegations of defalcation of funds, Nowda P.S. Case No. 142 of 2019 dated June 21, 2019 under Sections 420/406/468/471 of the Indian Penal Code was registered against the petitioner. The petitioner was issued show cause notice by the Block Development Officer, Nowda Block on June 26, 2019 and the petitioner was directed not to resume his duties until further orders.

Records reveal that the Nowda P.S. Case Nos. 189 of 2019 and 204 of 2019 were also initiated against the petitioner and some other persons on similar charges. The said proceedings are pending. Records further reveal that the learned Chief Judicial Magistrate, Murshidabad had released the petitioner on bail in respect of all the three cases on different

dates. Such orders have been annexed to the writ petition. It also appears that the learned Vacation Judge, Murshidabad was not pleased with the investigation and had directed that new investigating officer must be appointed. The Court was, prima facie, of the opinion that as nothing was seized from the custody of the petitioner as there had been no progress in the investigation, and four bank accounts were opened by Tanmay Biswas and his relatives, who had not been arrested, the petitioner must be released on interim bail. Such interim bail was confirmed.

Be that as it may, it is an admitted position that the petitioner had been granted bail. It is also an admitted position that Tanmay Biswas, who is also a co-accused had been allowed to resume his duties by an order of the District Panchayat & Rural Development Officer, Murshidabad dated March 20, 2021. As such, there is no reason as to why the authority should not be directed to consider the application of the petitioner pending before the District Magistrate, Murshidabad to allow the petitioner to resume his duties.

It is submitted by the learned advocate for the petitioner that the petitioner stands in a better footing than the said Tanmay Biswas, who was allowed to resume his duties.

This Court is not inclined to decide the culpability and involvement of the petitioner in the criminal cases and they shall continue in accordance with law. However, if the authorities had decided the case of Tanmay Biswas and had allowed him to join his duties, this Court is of the opinion that the case of the petitioner and the prayer for allowing the petitioner to resume his duties must be considered by the District Panchayat & Rural Development Officer, Murshidabad, in a fair and just manner.

It is settled law that similarly situated persons must be treated in the same way and unless it is found by the authorities that allowing the petitioner to join, would be detrimental to the interest of the respondents and the pending criminal cases, there is no reason why the petitioner should not be treated equally with Tanmay Biswas.

Under such circumstances, this writ petition is disposed of granting liberty to the petitioner to make a comprehensive application before the District Panchayat & Rural Development Officer, Murshidabad and renew his prayer for being allowed to resume his duties. The case records and the orders in his favour shall be produced before the said authorities.

The petitioner shall be given an opportunity to be represented by his learned advocate so that the

contentions of the petitioner may be placed before the authority concerned. If it is found that the petitioner is similarly situated like Tanmay Biswas, the petitioner should be given an opportunity to join his duty on such terms and conditions as the authority may deem fit and proper, subject to fulfilment of other existing criteria. If it is found that the prayer of the petitioner cannot be allowed, in that case reasons shall be disclosed.

The petitioner shall file his application before the District Panchayat & Rural Development Officer, Murshidabad within a period of two weeks and the authority shall conclude the entire proceeding, pass a reasoned order and communicate the same to all concerned within a period of two months from the date of receipt of the application.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)