

26-08-2022
ct no. 23
Sl. 11
Sayandeep

WPA 18546 of 2022

Tapas Biswas
-Versus-
The State of West Bengal & Ors.

Mr. Dhruva Mukherjee
Mr. Asraf Mondal
Mr. Ajit Kumar Barman

...for the petitioner

Mr. Nilotpall Chatterjee
Mr. A. Dasadhikari

.....for the State

The petitioner was enrolled as a Civic Police Volunteer and was engaged at Karimpur Police Station in District Nadia, West Bengal. It appears from the statement made in paragraph 4 of the writ petition that a complaint was lodged by one Pampa Sarkar before Karimpur Police Station which was registered as Karimpur Police Station case No. 10/2020 dated 14th January, 2020 under Sections 376/417/506 of the Indian Penal Code, 1860 (in short IPC). Although, the petitioner says that the complaint is false but the criminal case is pending and the petitioner has not yet been exonerated and/or discharged therefrom. The petitioner in fact applied for anticipatory bail and on being granted so by this Court, surrendered before the Court below and

obtained regular bail. The petitioner says that though he had never been arrested and that the complaint made against him does not pertain to any offence committed while in official duty but the petitioner has been demobilized subsequent thereto. The petitioner has not been assigned any work after initiation of the criminal case. The petitioner further says that he had made a representation before the Superintendent-of-Police, Nadia to consider his case and permit him to join his duty. The said representation which was dispatched on 28th January, 2022 to the Superintendent-of-Police, Nadia and Officer-in-Charge, Karimpur Police Station and annexed at page-26 of the writ petition has not been considered and disposed of. The petitioner is seeking a mandatory order for consideration and disposal of the petitioner's representation.

Admittedly the petitioner is not holding any civil post and his service is also not governed by any service rules. There is also no terms and conditions which governs the petitioner's enrollment and subsequent engagement for giving a show cause to the petitioner before being de-mobilized. The petitioner has been admittedly implicated in a criminal case and accused of serious offence. Unless the petitioner is discharged and/or exonerated from the same, the employer can demobilize him on the

ground of loss of confidence in the employee. The petitioner as a civic volunteer was assisting the police force and was engaged in the same police station wherein the complaint and the case against the petitioner has been registered. The continuance of the petitioner in Karimpur P.S. can also be an issue as he may be in a position to influence the investigation and tamper with the evidence. The nature of engagement of the petitioner does not permit a show-cause or a disciplinary proceedings to be initiated against the petitioner before he can be demobilized. The nature of engagement of the petitioner also does not confer with the right to have his representation seeking engagement to be considered either by the Superintendent-of-Police, Nadia or by the Officer-in-Charge, Karimpur P.S. The petitioner has relied upon an order dated 25th February, 2021 passed in WPA No. 3847 of 2020(*Bahadur Mondal Vs. State of West Bengal and Ors.*) for his representation to be considered by the Superintendent-of-Police, Nadia. The petitioner has not been able to demonstrate any legal right by virtue of which such representation is required to be considered. The case in hand is also different from that considered in **Bahadur Mondal**(Supra). There is no observation as contained in the order of the Additional Sessions Judge, Tehatta, Nadia and quoted

in the order dated 25th February, 2021 in **Bahadur Mondal**(Supra) in the petitioner's case. In the order passed by the Division Bench of this Court.

Considering all these aspects, I find that the writ petition is devoid of merit and the same is accordingly dismissed without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)