

03.02.2022
Item No. 15
Crt.No.11
b.r.

MAT 1363 of 2021
with
IA No. CAN 1 of 2021

The State of West Bengal & Ors.
Vs.
Dipanjana Chakraborty
(Via video conference)

Mr. Tapan Kumar Mukherjee
Mr. Pinaki Dhole
Mr. Avishek Prasad
..... for the appellants.

Mr. Biswajit Ghosh
Mr. Sumitava Chakraborty
.....For the Respondent.

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

Mr. Biswajit Ghosh, learned Counsel, represents the
respondents/the writ petitioner with Mr. Sumitava
Chakraborty, learned Advocate.

The State/appellants are represented by Mr. Tapan
Kumar Mukherjee, learned Additional Government Pleader
(AGP) with Mr. Pinaki Dhole, learned State Counsel.

Under challenge before this Court is the order dated
13th December, 2021 passed by the Hon'ble Single Bench
admitting the writ petition. The writ petition had been filed
by the sole respondent in this appeal challenging the
Disciplinary Proceeding (DP) initiated against him for alleged
acts of misconduct during his tenure as an Officer under the
Land and Land Reforms Department, Barrackpore, North 24-
Parganas. The Hon'ble Single Bench restrained the

Disciplinary Authority (*DA*), i.e. the State-Respondents, from proceeding with the *DP* against the sole respondent/the writ petitioner on the ground that the fundamental rights of the writ petitioner to answer the charge-sheet in the *DP* has been violated.

The Hon'ble Single Bench, *inter alia*, held that the sole respondent/the writ petitioner being in judicial custody connected to a criminal case instituted against him by the Block Land and Land Reforms Officer (*BL&LRO*), Barrackpore, North 24-Parganas cannot be in a position to answer such charge-sheet while continuing to remain as a detainee under the State.

Mr. Mukherjee, learned *AGP*, submits that it is now well-settled as pronounced in ***L. Chandra Kumar -vs- Union of India & Ors. reported in 1997 (3) SCC 261***, that the Hon'ble Single Bench could not hold any jurisdiction to hear a service matter wherein the employer is the State Government. By operation of law the West Bengal Administrative Tribunal is the first legal platform for redressal of grievances connected to State service. The Hon'ble Single Bench therefore exercised a jurisdiction which was *void ab initio* and hence the Judgement and Order impugned dated 13th of December, 2021 stands to be a nullity.

Having heard the parties and considering the materials placed, this Court is of the view that the principle enunciated

in L. Chandra Kumar (*supra*) are too well recognised to be reiterated. The order impugned of the Hon'ble Single Bench dated 13th of December, 2021 is in exercise of the jurisdiction which does not exist and cannot be assumed. This Court is of the view that the writ petition itself is not maintainable. Accordingly, the order impugned dated 13th of December, 2021 stands set aside.

This appeal being **MAT 1363 of 2021** with **CAN 1 of 2021** stand accordingly **allowed**.

WPA No. 17394 of 2021 stands also **dismissed** as not maintainable.

The interim direction dated 13th of December, 2021 stands thus vacated.

Parties shall be at liberty to take steps before the competent forum/Tribunal in accordance with law.

All parties shall act in terms of a 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 of all necessary formalities.

(Krishna Rao, J.)

(Subrata Talukdar, J.)