

75.
17.11.2022
S.D.

W.P.A. 20288 of 2022

Krishnadas Mukherjee
Vs.
Bangiya Gramin Vikash Bank & Ors.

Mr. Debabrata Saha Roy
Mr. Indranath Mitra
Mr. Subhankar Das

... For the Petitioner

Mr. Baidurya Ghosal
Ms. A. Dutta Roy

..For the Respondent Nos. 1 to 9

In this writ petition, the petitioner has claimed for quashing of the charge sheet dated February 23, 2021 and also quashing of a subsequent rectification/corrigendum dated August 10, 2022 of the charge sheet. Admittedly, the petitioner retired from employment on December 31, 2016. Admittedly, no disciplinary proceeding was pending against the petitioner on the date of retirement nor was the petitioner placed on suspension on the date of his retirement. The charge sheet initiating disciplinary proceedings was issued on February 23, 2021 after more than 4 years from the date of retirement. Furthermore, the petitioner has also prayed for release of his all pensionary benefits along with gratuity in the writ petition.

A report on affidavit was directed to be filed on behalf of the respondents. The said report is filed in Court today by Mr. Ghosal, learned counsel appearing on behalf of the respondents.

The report of affidavit filed in Court today is retained with the records.

After perusal of the said report, it appears that the departmental enquiry started after more than 4 years from the date of retirement of the petitioner from the employment.

Mr. Saha Roy, learned counsel appearing on behalf of the petitioner submits that since neither departmental proceeding was pending nor the petitioner was put under suspension till the date of his retirement, the charge sheet dated February 23, 2021 and the subsequent corrigendum dated August 10, 2022 is illegal and/or void and the same should be set aside/quashed.

Consequently, the retiral benefits of the petitioner should be disbursed.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that a charge sheet dated February 23, 2021 was issued more than 4 years after the death of retirement of the petitioner on December 31, 2016. In service jurisprudence, no disciplinary

proceeding can be initiated against a retired employee. The action taken by the respondent bank is illegal and arbitrary.

In the circumstances aforesaid, the charge sheet dated February 23, 2021 along with the corrigendum dated August 10, 2022 is set aside and/or quashed.

Consequently, this Court holds that the petitioner is entitled to all the retiral benefits payable to him including gratuity as indicated in the prayer (g) of the writ petition without consideration of interest.

Let the prayer of the petitioner for disbursement of all the pensionary benefits along with gratuity be considered by respondent no. 4/General Manager (HR and Accounts) within eight weeks from the date of communication of this order.

With the direction above, **W.P.A. 20288 of 2022** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

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

(Lapita Banerji, J.)

