

27
12.12.2022
(sanjay)
Ct 21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26319 of 2022

Sunil Kumar Prasad
Vs.
The Union of India & Ors.

Mr. Nayan Rakshit for the petitioner.

Mr. Suman Chattopadhyay,
Mr. Rivu Dutta ... for the respondents.

In this writ petition the petitioner challenges an order dated October 27, 2022 whereby the petitioner was demoted from the post of ASI to the post of Constable. The petitioner is working in the Railway Protection Force (in short, RPF). The petitioner was promoted to the post of Assistant Sub-Inspector (ASI) with effect from 2021.

Mr. Rakshit, learned counsel appearing on behalf of the petitioner submits that the petitioner's prayer for extension of time to give reply to the show cause notice was not considered by the respondent authorities. Therefore, the petitioner was condemned unheard and in breach of principles of natural justice. The said action on the part of the respondent authorities is illegal and arbitrary.

Mr. Chattopadhyay, learned counsel appearing on behalf of the respondent authorities submits that the time to file show cause notice was initially extended for a period of 7 days and thereafter for a period of another 14 days. By an office order dated October 25, 2022 the Assistant Security Commissioner-I/Sealdah came to the finding that

the petitioner was given sufficient time to submit reply to the show cause notice but he was trying to avoid giving reply to the same and, therefore, no further extension was required to give for the purpose of giving reply.

A false declaration has been made by the petitioner in respect of the pending criminal cases against him prior to his promotion to the post of ASI. A copy of the said declaration given by the petitioner on September 12, 2022 is retained with the records. The petitioner has himself declared that as on September 12, 2022 no criminal case was pending against him.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the petitioner has approached this Court with unclean hands and, therefore, he is not entitled to any relief, as prayed for, or at all. The petitioner has sought to invoke the high prerogative Writ Jurisdiction of this Hon'ble Court by suppressing material facts. Such a conduct of the petitioner is highly deprecated by this Court.

In the light of the discussions above, the writ petition, being **WPA 26319 of 2022**, is **dismissed**.

Since no affidavits have been directed to be exchanged in the said writ petition, all the allegations contained therein, are deemed not to have been admitted by the parties.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)

