

28.11.2022
Court No.2
Item No.15
Cp

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

WPA 2880 of 2022

Sri Bijoy Chandra Barman
Vs.
The State of West Bengal and Ors.

Ms. Suman Sehanabis
Mr. Salok Sah

... For the Petitioner.

Mr. Hirak Barman
Mr. Pretom Das

... For the State.

Ms. Deborshi Dhar

...for the DPSC, Cooch Behar.

The petitioner was serving as an assistant teacher in a primary school. The petitioner was arrested in connection with Ghoksadanga Police Station Case No. 286 of 2022, dated August 5, 2022, under Sections 498A of the IPC. As the petitioner allegedly was in custody for two days, the disciplinary authorities suspended the petitioner by invoking the service rules. The order of suspension was passed on August 31, 2022. The petitioner alleges that till now no disciplinary proceedings have been initiated. Charge-sheet has not been filed and the petitioner has been kept in a state of animated suspension. Such delay, according to the petitioner, is punitive and the

petitioner prays that the authorities be directed to rescind, cancel and/or revoke the order of suspension.

The offence committed by the petitioner does not have any relation to his work place. However, as the service rules empower the disciplinary authority to suspend an employee who has been in custody for 48 hours, the disciplinary authority has exercised such power. Three months have passed since such suspension order was passed. No charge-sheet has been filed. The disciplinary authority has not even given an indication as to whether they want to proceed under the service rules against the petitioner.

Under such circumstances, unless the disciplinary authority decides to initiate a disciplinary proceeding by issuing a charge-sheet within a period of one month from the date of communication of this order, the petitioner's prayer for revocation of the suspension order being Annexure P-4 at page 19 of the writ petition be considered, in accordance with law within a month thereafter, specially keeping in mind that the offence complained of in respect of which the criminal investigation is pending, does not have any relation to the petitioner's activities in the work place.

If no decision is taken within the aforementioned period, the petitioner shall be entitled to join his duty without further reference to the disciplinary authority.

This order shall not prevent the disciplinary authority from taking further action by proceeding against the petitioner under the service rules.

Needless to mention, that during the period of suspension the petitioner shall be granted subsistence allowance as per the proviso to Sub-Rule (4) of Rule 7 of the West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001, in case the suspension is prolonged beyond three months.

The writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)