

02.03.2023
DL-7
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2530 of 2023

Sri Bimal Kumar Das
Vs.
The State of West Bengal & Ors.

Mr. Manas Kumar Ghosh
....for the petitioner.

Mr. Tapan Kumar Mukherjee, AGP,
Ms. Tuli Sinha
....for the State.

Ms. Deblina Chattaraj,
Ms. Angana Dutta
....for WBTCCL.

Affidavit of service filed in Court today is retained with the records.

The petitioner has challenged a final order passed by the Disciplinary Authority on April 21, 2021. By the impugned order, the petitioner was imposed a penalty of retirement on medical ground pursuant to Rule X (c) of Revised Leave Rules (CTC) 1991. The petitioner was an employee of West Bengal Transport Corporation Limited (WBTCCL). From the final order dated April 21, 2021, the petitioner preferred a statutory appeal before the Appellate Authority on May 12, 2022.

Mr. Ghosh, learned counsel appearing on behalf of the petitioner submits that even though the

petitioner was not examined medically, he was retired on medical grounds and as such the said penalty is in violation of the 1991 Leave Rules. He also draws the attention of this Court to the fact that the statutory appeal despite being drafted on May 12, 2022 and posted on August 27, 2022 has not been disposed of by the Appellate Authority. He also submits that the petitioner has also not been disbursed his retiral benefits.

Mr. Mukherjee, learned Additional Government Pleader appearing on behalf of the State of West Bengal/respondent no.1 submits that since a statutory appeal has been preferred, this writ petition is not maintainable.

Ms. Chattaraj, learned counsel appears on behalf of respondent nos.2 to 5.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that since a statutory appeal has been preferred by the petitioner, this writ petition is not maintainable at present.

However, this Court finds that at least since the end of August or beginning of September the statutory appeal is pending with the Appellate Authority. Six months have already passed.

This Court is of the view that the statutory appeal should be disposed of expeditiously and not beyond a period of 8 weeks from date upon giving personal hearing to the petitioner. The said appeal will be disposed of with a reasoned order which shall be communicated to the petitioner within 2 weeks of passing thereof.

With the directions aforesaid, **WPA 2530 of 2023 is disposed of.**

Since no affidavits have been called for in the writ petition, the allegations contained therein are deemed not to have been admitted by the respondents.

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.)