

31 **12.04.**
2023
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.CT 30 of 2023

Soumyendra Nath Banerjee
Vs.
Union of India and others.

Ms. Reshmi Ghosh,
Mr. Soumya Sankar Chini.
... for the petitioner.

Mr. D. N. Ray,
Mr. Partha Sarathi Mondal.
... for the Union of India.

An innocuous order passed by the Tribunal on the basis of the submissions advanced by the respective Counsels in OA 572 of 2022 is sought to be interpreted differently by the Counsel appearing for the writ petitioner.

By the impugned order, the Court after recording the submissions directed the parties to exchange affidavits, which is now construed that such observation creates an impediment on the part of the disciplinary authority in proceeding therewith without redressing the grievance so raised by the writ petitioner.

The ground on which the Tribunal was approached pertains to alleged discrepancy in the disciplinary proceeding and the submission was advanced by the Counsel appearing for the writ petitioner highlighting the same, which unequivocally gives an impression to us that it was a mere recording of submission at the behest of the parties and cannot be perceived an independent finding returned by the Tribunal.

A distinction has to be drawn between an

independent finding recorded by the Tribunal in pursuit of judicial adjudication with the recording of the submission advanced by the respective Counsels. The law is somewhat clear in this regard that in the event a party is of the view that there is an ambiguity in construction of the language used in the order, it is open to such person to approach the same Judge seeking clarification thereto. The Judge, who has recorded the events or passed an order, is the best person to give clarity in the language used therein in order to avoid any confusion or ambiguity in understanding the mind of a Judge being an author of the said order.

We are informed by the respective Counsels that the pleadings are complete in all respect and the main matter is otherwise ready for final disposal.

We, therefore, do not intend to interfere with the impugned order. However, it is open to the writ petitioner to take appropriate recourse before the Tribunal in the form of clarification and we hope and trust that the Tribunal would consider the same on merit.

However, we feel that the matter being ready may be disposed of at an earliest. We, therefore, request the Tribunal to prepone the date and endeavour shall be shown to dispose of the same within four weeks from the date of communication of this order in accordance with law.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)

