

16.08.2023
Item No.55
Ct. No.5
CHC
(dismissed)

**WP.ST 97 of 2010
IA NO:CAN/1/2023**

**Sukumar Sen Sarma
Vs.
State of West Bengal & ors.**

Mr. Bikash Ranjan Neogi,
Mr. Guddu Singh,
Ms. Ananya Neogi,
Ms. Soma Chakraborty
...for the writ petitioner

The writ petition is directed against an order dated November 6, 2009 passed by the West Bengal Administrative Tribunal in O.A.399 of 2006.

By the impugned order, the learned Tribunal, noted the quantum of punishment imposed upon writ petitioner. After noting the same, the Tribunal referred the matter of eligibility of the writ petitioner to receive benefit of the period of service which he rendered before such removal, to the Principal Secretary to take a decision.

Learned advocate appearing for the writ petitioner refers to the articles of charges. He submits that, of the articles of charges only two were proved and the third was partly proved in the enquiry. He submits that, the quantum of punishment was excessive.

None appears for the State.

It appears from the records that, the petitioner was appointed as Operator-cum-Mechanic under the Water Resources Development Directorate, Government of West Bengal in the year 1971. He was appointed in the SAE department in the year 1973. He joined the Jhargram Sub Division in 1989. He was asked to work for three days in a week at a particular place for smooth running of the work at the circle office. On January 16, 1991, petitioner took leave allegedly due to sudden illness of his wife. On May 11, 1991, petitioner submitted an application where he sought to explain his reasons for absence from January 1, 1991 to March 3, 1991. Petitioner was sanctioned 45 days of leave from January 7, 1991 to March 2, 1991. Petitioner was found to be habitually absent. He was also found to be indulging in insubordination.

Petitioner was issued a show cause notice on September 17, 1992 due to his habitual unauthorised absence from his duty and insubordination. Petitioner replied thereto on October 12, 1992. Petitioner was issued another show cause notice dated December 1, 1992 to which, petitioner replied on December 9, 1992. An enquiry with regard to the charges framed as against the petitioner was conducted. The petitioner was found guilty of two of the charges with the third charge being established in part. The

disciplinary authority issued a final order dated July 30, 1993 as against the petitioner. The petitioner assailed such order before the appellate authority. The appellate authority concurred with the disciplinary authority. Petitioner thereafter, approached the Tribunal assailing the order of punishment. Thereafter, in the original proceeding, the impugned order was passed.

So far as quantum of punishment is concerned, it is in the domain of the disciplinary authority/appellate authority.

In the facts of the present case, charges of unauthorised absence and insubordination stood established as against the writ petitioner. The quantum of punishment was removal from service with the rider that such removal will not be treated as disqualification for his future employment. We do not find the quantum of punishment imposed to be shocking. The Tribunal indulgently granted relief to the writ petitioner by directing the Principal Secretary to consider payment of benefits for the period of service rendered by the writ petitioner.

Since, the State did not prefer an appeal from the impugned order, we are not minded to interfere with such portion of the impugned order of the Tribunal.

In such circumstances, we find no merit in the present writ petition.

WP.ST 97 of 2010 along with connected application are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)