

05.06.2023
ML-4
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8364 of 2023

Sandeep Kumar Ray
Vs.
The Bureau of Indian Standards & Ors.

Mr. Ranajit Chatterjee,
Mr. Aniruddha Mitra

....for the petitioner.

Mr. Jagannath Ganguly

....for the respondents.

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

By an order dated March 3, 2021 a Coordinate Bench of this Hon'ble Court directed the representation of the petitioner to be considered for payment of compassionate allowance in lieu of pension under Rule 41 of the Central Civil Service (CCS) Pension Rules.

Pursuant to the directions of this Hon'ble Court, the Deputy Director General (Admin.) of the Bureau of Indian Standards, HRD Department/respondent no.1 considered the representation of the petitioner and disposed it of by a reasoned order.

From the reasoned order, it appears that the petitioner applied for extraordinary leave of 858 days from July 7, 2003 till October 30, 2005 vide his application dated June 26, 2003, to pursue his higher

studies in Kolkata. The leave sanctioning authority refused the said leave by a letter dated July 10, 2003 due to “*exigency of work*”. After the leave sanctioning authority communicated its decision, the petitioner went on unauthorised leave from July 11, 2003. An explanation was sought from him to the said effect and the petitioner was directed to resume his duty immediately. The petitioner was further informed on July 17, 2003 that the period of leave from June 16, 2003 to June 19, 2003 was also not granted. The petitioner had left the station without any note or communication to the office regarding his absence for the said period. The unauthorised absence of the petitioner since July 11, 2003 had “adversely affected the progress of very important work which he had left incomplete”. By a telegram dated July 24, 2003 it was also intimated to the petitioner that his leave was not granted and he was required to resume his duty immediately. Another telegram was sent on August 12, 2003 communicating the same. By a memorandum dated July 24, 2003 it was also reiterated that his request for study leave for 858 days had not been acceded to. A charge sheet was issued on September 23, 2004 and sent to five different available addresses. Four of the said charge sheets were received back with remarks “undelivered”. No

statement of defence was received from the petitioner against the charge sheet. Therefore, under Rule 14 of CCS (CCA) Rules, 1965, the enquiry was held ex parte. Notice of preliminary hearing was also given to the petitioner. Since the said notice was sent to all the available addresses but such notices were received back unacknowledged, a public notice was published in two newspapers prior to the conclusion of the hearing. Thereafter, the Disciplinary Authority imposed the penalty of “**dismissal**” from service on the petitioner due to his unauthorised absence. After more than a decade, the petitioner made a request for grant of compassionate allowance which was rejected by the authorities. No facts regarding financial hardships of the petitioner or hindrance rendering him unable to earn his livelihood warranting special consideration was brought on record. Therefore, the authorities concerned refused his prayer for special consideration.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that there is no infirmity in the decision making process of the respondent authorities. The impugned order dated June 21, 2021 is well-reasoned order, which does not warrant any interference. Furthermore, it has also not lost upon this Court that

almost after two years of passing of the Impugned order the writ petitioner has chosen to file the instant writ petition. This also supports the view of this Court that there is no financial hardship suffered by the petitioner, which merits special consideration under Rule 41 of CCS (Pension) Rules apart from the conduct of the petitioner not meriting the same.

For the reasons aforesaid, **WPA 8364 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged 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.)