

WP.ST 169 of 2010

Sri Amit Baran Konar
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Neogi
Ms. Ananya Neogi
... for the petitioner

Mr. Sirsanya Bandyopadhyay, Id. Junior Standing Counsel
Ms. Sanghamitra Nandy
Mr. Arka Kumar Nag
... for the State

The writ petition is directed against an order dated February 26, 2010 passed by the West Bengal Administrative Tribunal in O.A. 3292 of 2005.

By the impugned order, the learned Tribunal, found no merit in the application of the writ petitioner.

Learned advocate appearing for the writ petitioner submits that, a false police complaint was lodged as against the writ petitioner by his father-in-law, inter alia, under Sections 498A/306 of the Indian Penal Code, 1860. No charge-sheet in respect of such criminal case was ever filed as against the writ petitioner. The police authorities proceeded as against the writ petitioner departmentally on the basis of the writ petitioner being arrested in such criminal case. A

punishment order was imposed as against the writ petitioner in the departmental proceeding on the basis of the criminal case. He submits that, the foundational basis of the order of punishment being the involvement of the writ petitioner in a criminal case no longer subsists in view of the police not filing charge-sheet in the criminal case. He submits that, the final order of punishment in the disciplinary proceeding is a subject matter of challenge in a separate original application before the learned Tribunal.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner was denied promotion on the basis of the disciplinary proceeding in 2005. The writ petitioner is entitled to promotion therefrom. Denial of promotion was on extraneous consideration and, therefore, should be set aside.

Learned Junior Standing Counsel appearing for the State submits that, a criminal case as against the writ petitioner was registered on December 29, 1997. The writ petitioner was arrested. Since the writ petitioner was in custody for more than 48 hours, the writ petitioner was paced under suspension from January 1, 1988. The writ petitioner was enlarged on bail on January 12, 1988. A final order of the

disciplinary proceeding was passed on October 13, 2000. The order of suspension was withdrawn on November 8, 2000. He refers to the contents of the order of the disciplinary authority. He submits that, apart from the criminal case, misconduct of the writ petitioner with regard to his availment of sick leave and his abuse thereof were factors, which were taken into consideration.

Learned Junior Standing Counsel appearing for the State submits that, in any event the writ petitioner was considered for promotion subsequently and was promoted to the post of Assistant Sub-Inspector of Police on February 3, 2011 which he accepted unconditionally. The writ petitioner was subsequently promoted to the post of Sub-Inspector of Police on May 25, 2021, which again he accepted unconditionally. The writ petitioner superannuated from service and accepted the retiral benefits unconditionally. He submits that, promotion is not a matter of right. The writ petitioner was considered for promotion in 2005 and found unsuitable. According to him, the unsuitability of the writ petitioner for granting promotion is not justiciable.

Writ petitioner was involved in a criminal case, which was registered on December 29, 1997. He was

arrested. Consequently, after his arrest, he was placed under suspension. A disciplinary proceeding was initiated. In the disciplinary proceeding, a final order dated October 13, 2000 was passed. The final order took into account not only the pendency of the criminal case but also the misconduct of the writ petitioner with regard to his leave granted for a particular period.

Apparently, the final order of the disciplinary proceeding is under challenge in a separate original application. We are not commenting upon the merits or demerits of the disciplinary proceeding at this stage since the same is likely to prejudice the parties.

We are concerned with the non-grant of promotion to the writ petitioner in 2005.

In its affidavit-in-opposition, State explained that the writ petitioner was considered for promotion in 2005 and that his service record were not found suitable for the purpose of granting such promotion to him.

An aspirant is not entitled to promotion as a matter of right. What an aspirant is entitled to is consideration for promotion. The State authority explained in its affidavit that the writ petitioner was considered for

promotion in 2005 and his service record did not argue well for him. Nothing is placed on record to suggest otherwise.

Therefore, there is no material before us to establish that the writ petitioner was not considered for promotion in 2005 or that non-grant of promotion to the writ petitioner in 2005 was for extraneous considerations as alleged.

The conduct of the State vis a vis the writ petitioner should also be adjudged on the subsequent steps that the State authority took. State promoted the writ petitioner on February 3, 2011 to the post of Assistant Sub-Inspector of Police which the writ petitioner accepted without any demur. He was subsequently promoted to the post of Sub-Inspector of Police on May 5, 2021 which such promotion the writ petitioner accepted again without any protest. On his superannuation, writ petitioner was granted the retiral benefit, which he accepted without objection.

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

WP.ST 169 of 2010 is, therefore, dismissed
without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)