

18.08.2023
Item No. 16
Ct. No. 238
AKG

WPA 10228 of 2022
Smt. Manasi Santra
Vs.
Visva-Bharati & Ors.

Mr. Anirban Kar,
Mr. Munshi Ashiq Elahi,
Ms. Snigdha Das

...for the Petitioner

Mr. Soumya Majumder,
Mr. Victor Chatterjee,
Mr. Barnamoy Basak

...for Visva-Bharati

Mr. Anil Kr. Gupta

...for UGC

The following articles of charge had been
framed against the petitioner by Visva Bharati.

“ARTICLE –I

That Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati is habituated in absence without any leave which is prejudicial to the interest of the university and such unauthorised absence on the part of Smt. Santra may be termed as misconduct.

ARTICLE-2

That Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati is involved in violation of office order which is prejudicial to the interest of the university and such violation on the part of Smt. Santra may be termed as dereliction of duty and misconduct.

ARTICLE-3

That Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati is habitually negligent in respect of duties for which she is engaged which is

prejudicial to the interest of the university and such negligence on the part of Smt. Santra may be termed as misconduct and dereliction of duty.”

The said proceeding was ultimately concluded by issuance of an office order dated November 26, 2021 issued by the Registrar (Acting), Visva Bharati. The said order reads:

“ORDER

WHEREAS, a disciplinary enquiry was held against Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati on the charge of (i) habituated in absence without any leave, (ii) involved in violation of office order and (iii) habitually negligent in respect of duties.

AND WHEREAS, an Inquiry Officer was appointed to enquire into the charges leveled against Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati and the Karma-Samity (Executive Council) in its meeting held on 14/08/2021 considered the report of the Enquiry Officer.

AND WHEREAS, the Karma-Samity (Executive Council) in its meeting held on 10/11/2021 considered the decision taken by the Executive Council on 14/08/2021 for imposition of the major penalty of reduction to a lower grade for a period of two (2) years with postponing future increments and without regaining original seniority in the higher grade and came to the conclusion that the major penalty of reduction to a lower grade would not be applicable to her, since Smt. Santra has joined Visva-Bharati Service as Semi Professional Assistant, Central Library on 03/07/2012 and she is holding the same post till date. The Executive Council reviewed its earlier decision

and proposed for imposition of minor penalty i.e. withholding of two (2) increments with cumulative effect with immediate effect.

Now therefore, I am directed to communicate that Smt. Manasi Santra, Semi Professional Assistant, Central Library, Visva-Bharati, is hereby given an opportunity of making representation, in writing within fifteen days from the date of issue of this order, on the penalty proposed above.

The enquiry report including the findings on each article of charges is enclosed.”

The petitioner challenges the said order dated November 26, 2021 on the ground that the copy of the depositions made before the enquiry committee was not supplied to her. The petitioner was in complete dark about the evidence collected against her. She, however, applied for the copy of such deposition by an application made under Right to Information Act, 2005, after the impugned order of punishment was communicated to her.

Mr. Soumya Majumdar, learned advocate appearing for the university submits that the disciplinary proceedings should not be interfered on a technical ground. The petitioner has admitted before the enquiry committee that she used to commute from Kolkata to Santiniketan to attend the university on daily basis. Such act was violative of the terms of the appointment of the petitioner, which is apparent from the appointment letter dated June 28, 2012. The

said appointment letter mandated that the petitioner, in order to discharge her duties, should reside within the territories of the university as stated under the Visva-Bharati Act, 1951.

It cannot be said that because of the non-supply of the copy of deposition the petitioner has suffered any prejudice so as to justify interference by this Court.

I am unable to accept the contention of the university. The Executive Council of the University in its meeting dated February 18, 2007 resolved, inter alia, as follows :

“Resolution

Resolved that the Executive Council (Karma-Samity), delegates its power to take disciplinary action against any Adhyapakas and other members of the Academic staffs and the officers belonging to the grades above the Deputy Registrars and Equivalent, in terms of the Act and Statutes of the University and an Ordinance to be prepared for the said purpose accordingly.

Resolved further, that pending passing of the Ordinance, the Vice-Chancellor be delegated the power and authority to act as the Disciplinary Authority in respect of Adhyapaka and other Members of the Academic staff and also in respect of officers belonging to the Grades Deputy Registrars and above and be authorized to proceed with the disciplinary process in terms of the Act/Statutes/Ordinance of the University and the Rules of Government of India subject to report to the Karma-Samity (Executive Council) in due course.”

Since no such ordinance has been passed yet, the Visva-Bharati should have conducted to enquire in terms of the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

A bare perusal of the enquiry report at page 274 of the writ petition clearly shows that the enquiry was not conducted by the enquiry committee in terms of the said Rules. The enquiry report reveals that the enquiry committee after discussing with “all parties concerned to the enquiry” and after discussion among the members, came to certain findings against the petitioner and held that she was absent without any authorised leave and she did not maintain the rule of a residential institution by not staying at the station.

Those so-called discussion and deliberation were held behind the back of the petitioner. The so-called evidence as appearing from page 302 to 320A was collected behind the back of the petitioner. She was never given an opportunity to deal with the said materials.

In that view of the matter, the enquiry report as well as the impugned order of punishment dated November 26, 2021 cannot be sustained and accordingly, they are set aside.

Having regard to the nature of the allegations made in this writ petition, I direct the university to start the disciplinary proceeding de novo from the

stage of enquiry. Such enquiry shall be concluded within a period of three months from the date of communication of this order. The disciplinary proceedings should be completed within a period of six months from the date of communication of this order.

The university in conducting the disciplinary proceeding shall follow the Central Civil Services (Classification, Control and Appeal) Rules, 1965.

WPA 10228 of 2022 is disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)