

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST 86 of 2023

Pulakesh Roy

VS.

The State of West Bengal & ors.

For the Writ Petitioner : Mr. D. N. Ray,
Mr. M. N. Ray,
Mr. Sankha Ghosh,
Mr. B. Nandy,
Mr. R. K. Shah

For the State : Mr. Tapan Kumar Mukherjee,
Sr. Advocate
Ms. Debdooti Dutta

Hearing concluded on : 07.06.2023

Judgement on : 07.06.2023

DEBANGSU BASAK, J.:-

1. The writ petitioner assails an order dated May 3, 2023 passed by the West Bengal Administrative Tribunal in O.A. No. 158 of 2023.

2. By the impugned order, the learned Tribunal was pleased to quash the final order passed in the disciplinary proceedings with a direction upon the authorities to supply copy of the advice of the Public Service Commission (PSC) to the writ petitioner within two weeks from the date of the order. Thereafter, the writ petitioner was granted an opportunity to submit a representation before the Authority within two weeks from the date of receipt of the advice. It also directed that, if a representation was submitted by the petitioner, the same may be accepted and after giving an opportunity of hearing, a reasoned and speaking final order be passed by the Authority within a period of six months from the date of submission of such representation. Deduction from salary, if any imposed earlier by the Authority on the basis of the quashed order, should be refunded or adjusted and no further deduction should be made.

3. Learned advocate appearing for the writ petitioner refers to the articles of charges as against the petitioner. He submits that, article I and article III are vague. Such articles refer to guidelines without specifying the guidelines. Such articles

alleged that the writ petitioner violated guidelines without specifying the guidelines, which the petitioner violated. He relies upon **(2007) 1 Supreme Court Cases 338 (Govt. of A.P. & Ors. Vs. A. Venkata Raidu)** in support of the contention that in similar circumstances the Hon'ble Supreme Court found that charges to be vague and, therefore, quashed the departmental proceeding. He submits that, the departmental proceedings here in should receive the same fate as that of **A. Venkata Raidu (supra)**.

4. Learned advocate appearing for the writ petitioner submits that, articles of charges as against the petitioner relates to exercise of powers under the West Bengal Land Reforms Act, 1955 (Act of 1955). Orders passed by the writ petitioner exercising jurisdiction under the Act of 1955 are appealable. Writ petitioner cannot be visited with the disciplinary proceeding, assuming though not admitting, that the petitioner acted in violation of any provision of law.

5. Learned senior advocate appearing for the State refers to the materials on record. He refers to the articles of charges. He contends that, the writ petitioner was guilty of irregular

and unjustified exercise of powers under the Act of 1955. In fact, the writ petitioner acted de hors the statutory powers vested in him by law. Therefore, on discovery of such misdeeds by the writ petitioner, the departmental proceedings were initiated. He contends that, all the articles of charges as against the writ petitioner are specific and that there is no ambiguity with regard thereto. The articles of charges pin points the matter in which the writ petitioner was found to be acting beyond authority. According to him, the ratio of **A. Venkata Raidu (supra)** is not attracted to the facts of the present case.

6. A charge-sheet dated February 15, 2021 was issued as against the writ petitioner. The writ petitioner submitted a written statement of defence with regard thereto. Writ petitioner was issued a show-cause notice. Writ petitioner was also issued a final order of punishment dated December 23, 2022.

7. Being aggrieved by the final order dated December 23, 2022, writ petitioner filed O.A. No. 158 of 2023 before the West

Bengal Administrative Tribunal, which resulted in the impugned order dated May 3, 2023 as noted above.

8. It is contended that two articles of charges are vague.

Such two articles of charges are as follows:

“Article of charge-I

That Shri Pulakesh Roy, RO, attached to the BL&LRO, Tildangra, Bankura, while acting in the capacity of Revenue Officer took up a Misc. Case bearing no. 1803/2004 in the month of August 2016 and corrected the RoRs, flouting existing norms and guideline of the Dept. of L&LR and RR&R, W.B. On earlier occasion, petitioners filed two mutation cases and those were rejected. After being disallowed by the Prescribed Authority u/s 50 of the WBLR Act, 1955, another Revenue Officer cannot reopen the said cases through such Misc. Case.

Such conduct on the part of Shri Roy amounts to deliberate negligence, malafide intention and wrongful personal gain and also unbecoming of a government servant and is clear violation of provisions of Rule 3(1), 3(2) & 3(3) and 5(1) of the West Bengal Services (Duties, rights and Obligation of the Govt. Employees) Rule, 1980.

Article of charge-III

That Shri Pulakesh Roy, RO disposed of the Misc. Petition by correcting RoRs flouting existing system of record updation through mutation thus resulting loss of Govt. revenue and he adopted unfair and fraudulent method to suppress the actual fact.

Such conduct on the part of Shri Roy amounts to deliberate negligence, malafide intention and wrongful personal gain and also unbecoming of a government servant and is clear violation of provisions of Rule 3(1), 3(2) & 3(3) of the West Bengal Services (Duties, rights and Obligation of the Govt. Employees) Rule, 1980.”

9. Writ petitioner submitted a written statement of defence.

We perused the same. We do not find that the point of vagueness as sought to be contended in Court today was raised by the writ petitioner there. Contemporaneously, the writ petitioner understood the articles of charges. He submitted a written statement of defence dealing with both Articles-I and III of the article of charges without complaining that they were vague.

10. Independent of the written statement of defence, the articles of charges noted above, relates to proceedings which the writ petitioner undertook while discharging functions as a ‘Revenue Officer’ attached to the Block Land and Land Reforms Office, Tildangra, Bankura.

11. The first article of charge relates to Misc. Case No. 1803 of 2014. The first article of charge records that, as a ‘Revenue Officer’, he could not reopen the case through a Misc. case,

which he actually did and that the same amounted to deliberate negligence, malafide intention and wrongful personal gain and also unbecoming of a government servant. The third article of charge relates to the writ petitioner correcting record of rights flouting system of record resulting in loss of government revenue.

12. Both the articles of charges sufficiently delineates the misdeeds that the delinquent was called upon to answer. The writ petitioner understood the articles of charges. Quantification of the loss of revenue to the government is not fatal to article III of the charges. Principal importance is his functioning as the 'Revenue Officer' and his mishandling of the case resulting in loss of revenue. Quantum of loss is on a lesser pedestal than the process employed by the petitioner to result in revenue loss to the government. In the written statement of defence, the writ petitioner dealt with article of charge I and article of charge III in details without, taking the point of ambiguity or vagueness in such article of charges.

13. In **A. Venkata Raidu (supra)**, the charge against the delinquent was violation of orders issued by the government

from time to time. Moreover, in the facts of that case, copies of the materials on which, the authorities sought to rely upon against the delinquent to bring home the charges were not made available to the delinquent. Consequently, the proceedings were found to be vitiated by breach of principles of natural justice. The factual scenario obtaining in the present case are entirely different. As noted above, none of the articles of charges were understood by the writ petitioner while submitting his written statement of defence to be vague or ambiguous or without particulars. It is not the case of the writ petitioner that documents were not provided.

14. By the impugned order as noted above, opportunity was given to the writ petitioner to reply to the advice of the PSC, if he chooses to. We find no material irregularity in the order of the learned Tribunal to interfere under Article 226 of the Constitution of India.

15. We, however, extend the time to comply with the impugned order, if any portion of the same remains not complied with by extending the time for compliance with the quantum of time specified in the impugned order from date.

16. **WP.ST. 86 of 2023** is **disposed of** accordingly.

20. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

21. I agree.

(Md. Shabbar Rashidi, J.)

KAUSHIK CHATTERJEE