

31.08.2023
Item No. 23
Ct. No. 238
AKG

WPA 15693 of 2018
Prasanta Kumar Ghosh
Versus
Visva-Bharati & Ors.

Mr. Sagnik Roy Chowdhury

...for the Petitioner

Mr. Victor Chatterjee,
Mr. Barnamoy Basak

...for Visva-Bharati

This Court is surprised at the framing of a vague and baseless charge against an officer of the university, thereby compelling him to confront a purported disciplinary proceeding.

The sole article of charge framed against the petitioner is quoted below:

“Memorandum of Charges Framed Against Shri Prasanta Kumar Ghosh, Deputy Registrar (Acting Internal Audit Officer), Visva-Bharati.

ARTICLE-I

It has come to the notice that he has misled the University authority in the matter of Shri Prashant Meshram, Joint Registrar, Academic & Research for grant of deputation instead of lien to join him to the post of Controller of Examination at Central University of Odisha, Koraput.

Sd/-

26.6.23

Registrar (Acting)
Visva-Bharati”

The statement of imputation of misconduct in support of the article of charge is also worth quoting.

The statement of misconduct reads:

“Statement Of Imputation Of Misconduct In Support Of The Article Of Charges Framed Against Shri Prasanta Kumar Ghosh, Deputy Registrar (Acting Internal Audit Officer), Visva-Bharati.

ARTICLE - I

It has come to the notice that he has misled the University authority in the matter of Shri Prashant Meshram, Joint Registrar, Academic & Research for grant of deputation instead of lien to join him to the post of Controller of Examination at Central University of Odisha, Koraput.

Therefore, such misleading activity is prejudicial to the interest of the University on his part in the matter of Shri Prashant Meshram, Joint Registrar, Academic & Research may be termed as misconduct in terms of the provisions contained in the Visva-Bharati Act and Statutes and also the CCS (Conduct) Rules as applicable to the University.

Sd/-

26.6.23

**Registrar (Acting)
Visva-Bharati”**

It appears that one Dr. Meshram, who assumed the position of Joint Registrar (Academic & Research), Visva-Bharati, applied for the post of Controller of Examination, Central University of Odisha, Koraput.

To consider his request, the Registrar of the university prepared a note seeking the views from the administration to decide whether Dr. Meshram should be granted lien for a period of two years to enable to join his new assignment in Odisha.

The said notesheet dated February 28, 2023 was placed before the petitioner who appended the following endorsement :

“As per Sr. no. 2 of the terms and conditions of the offer of appointment (copy enclosed) the post is a tenure one of five years or 62 years of age whichever is earlier. So the condition of lien are not applicable. However, Dr. Meshram is entitled for deputation that may be decided by the administration.”

The said notesheet was subsequently placed before the Vice-chancellor of the University, who opined that Dr. Meshram should be released on lien.

The university, on April 21, 2023, issued an office order with regard to the prayer of Dr. Meshram. Said office order issued on April 21, 2023, is quoted below :

“OFFICE ORDER

The undersigned is directed to convey that the Vice-Chancellor, subject to ratification by the Karma-Samity (E.C.), has been pleased to release Dr. Prashant Meshram, Joint Registrar (Academic & Research), Visva-Bharati w.e.f. the 21/04/2023 (afternoon) subject to clearance of all dues of the University to enable him to join the

post of Controller of Examination, Central University of Odisha, Koraput. The Leave salary and Pension/NPS Contribution (LSPC), if any, shall be paid either by his present employer (Central University of Odisha, Koraput) or by himself as per rules.

The issue of granting Lien/Deputation as applicable to him as per rules will be finalized by the competent authority of the university later and the same will be communicated to Dr. Meshram in due course.

Ref. No. Est/E-II/ANE -1230

Date : 21/04/2023

**Sd/-
21/04/2023
Registrar (Acting)
Visva-Bharati”**

Thereafter the Executive Council of the University in its meeting held on June 23, 2023 resolved as follows:

“RESOLUTION

The Karma Samiti (Executive Council) strongly condemned such act of Dr. Prashant Meshram. The Karma Samiti (Executive Council) also considered the recommendations made by National Commission for Scheduled Caste, GoI, New Delhi (vide No. P-18/MoE-26/2023/SSW-II [74414] dated 20.06.2023) and after threadbare discussion, it was unanimously resolved that lien initially for a period of six (6) months be granted to Dr. Meshram to enable him to join as Controller of Examinations at Central University of Odisha, Koraput immediately. The extension of lien beyond six (6) months shall be subject to (i) settlement of audit paras on the complaints of financial irregularities (ii) decision of the Ministry of Education, New Delhi regarding the above audit paras and (iii) outcome of the Disciplinary Proceedings initiated

**against Dr. Meshram by the University.
This is for information and necessary action.”**

On the same date an office order was issued in terms of the aforesaid resolution.

Without a doubt, no disciplinary proceeding could be initiated against petitioner for the perceived misconduct by the university. When a notesheet was placed before the petitioner seeking his view, the petitioner merely endorsed his views on the notesheet.

The act of providing an erroneous view in a office note by itself cannot be deemed as misconduct unless it is demonstrated to have been done with an ulterior motive and malicious intent.

The office order dated April 21, 2023 makes it clear that the university itself was not sure as to whether Dr. Meshram should be granted lien or released on deputation. When the administration of the university could not take a definite view as on April 28, 2023 regarding the release of Dr. Meshram on deputation, it is perplexing to this Court how the petitioner could be charged for the alleged misconduct for giving his view.

When the petitioner gave his view, subject to approval of the administration, it cannot be said that

the petitioner misled the university or acted prejudicial to the interest of the university.

In the facts and circumstances of this case, I am of the view that the article of charge framed against the petitioner cannot be sustained. Accordingly, the article of charge dated June 26, 2023 framed against the petitioner is set aside.

However in the facts of the case, there will be no order as to costs.

WPA 15693 of 2023 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)