

DL-19

28.08.2023
Court No.5
(AD)

WP.ST 190 of 2013

**Rabindranath Marik
Vs.
State of West Bengal & Ors.**

*Mr. Biswanath Chakraborty
Mr. Krishnendu Bera*

... for the petitioner.

*Mr. Tapan Kumar Mukherjee,
Ld. Sr. Advocate & Ld. AGP
Ms. Tuli Sinha*

...for the State-respondents.

The writ petition is directed against an order dated February 22, 2013 passed in OA-1487 of 2012 by the West Bengal Administrative Tribunal.

By the impugned order, the Tribunal refused to interfere with the revised order of punishment meted out to the writ petitioner in a departmental proceeding.

Learned Advocate appearing for the writ petitioner submits that, a departmental proceeding was initiated against the petitioner, *inter alia*, on the charge that, the writ petitioner failed to obtain prior permission to acquire an immovable property. He submits that, the writ petitioner accepted the omission. He contends that, the omission was *bona fide*. The property was acquired 15 years back. On the ground of acquisition of such property, a harsh punishment of reducing the pay-scale of the writ petitioner to three scale below and prohibiting the writ petitioner from obtaining three increments was imposed.

Learned Advocate appearing for the writ petitioner refers to a notification dated September 3, 1998. He submits that, a number of higher officials of the State were guilty of the same offence and that, they were not being proceeded with. He submits that, the notification of September 3, 1998 acknowledges that, persons purchased immovable property without obtaining prior permission.

State is represented.

We find from the records that, a disciplinary proceeding was initiated as against the writ petitioner alleging that the writ petitioner acquired an immovable property without obtaining prior permission. The disciplinary proceedings resulted in an order of punishment. The order of punishment was assailed in an original application being OA-970 of 2011. The order of punishment was set aside. The disciplinary authority, thereafter, issued a second order of punishment in the manner as noted above. The second order of punishment was made the subject-matter of the original proceedings being OA-1487 of 2012 in which the impugned order was passed.

The contention of the writ petitioner before us today is limited to the notification dated September 3, 1998.

We perused the notification dated September 3, 1998. We find that, the State authorities, issued such

notification after observing that, the obligations prescribed under the West Bengal Services (Duties, Rights and Obligations of the Govt. Employees) Rules, 1980 regarding acquisition/disposal of the movable/immovable property was not being adhered to in letter and spirit. It noted that, some officers were acquiring/disposing of property without any permission from the department and in some cases they were applying to other authority for permission. It also noted that, in many cases, the officers do not furnish all relevant information and as a result, the process of the case and grant of permission is delayed. Moreover, many officers seek permission in respect of cases where no permission was necessary. Others take the plea that, they submitted the application through the District Magistrate or other authorities before acquisition and they were not at fault.

It is in the that context the notification dated September 3, 1998 was issued.

It noted that, submission of an application for permission was not sufficient. It prescribed the manner in which the application for permission was required to be made. It reiterated the requirement for seeking permission for acquisition/disposal of movable/immovable property by a government employee.

As noted above, on a revisit by the disciplinary authority with regard to the quantum of punishment, the

initial punishment was reduced.

The Tribunal in the impugned order, refused to exercise discretion with regard to the quantum of punishment imposed by the disciplinary authority.

Quantum of punishment in a disciplinary proceeding is within the domain of the disciplinary/appellate authority. Courts are entitled to interfere should the quantum of punishment imposed is established to be harsh, perverse and shocking to the conscience of the Court.

In the facts of the present case, we do not find that the quantum of punishment imposed is harsh so as to shock the conscience of the Court.

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

WP.ST 190 of 2013 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

