

18.
11.1.2023
S.D.

W.P.A. 16979 of 2021

**Mithun Dalal
Vs.
The State of West Bengal & Ors.**

Mr. Victor Chatterjee
Mr. Barnamoy Basak
Mr. Somdeep Chakraborty
...For the petitioner

Ms. Chama Mookherji
Mr. Gourav Das
..For the State

Mr. Sujit Sankar Koley
..For the W.B.S.E.D.C.L.

The petitioner was working as a senior Assistant in Barrackpore Division at the office of the West Bengal State Electricity Distribution Company Limited (WBSEDCL). The petitioner was transferred to Malda with effect from June 3, 2022. The petitioner did not join the transferred place of posting. A charge sheet was issued on June 13, 2022 against the petitioner. The petitioner was accused of being a habitual absentee from July 20, 2020 till June 3, 2022. It was alleged that the petitioner absented himself without any intimation to or permission from the authority concerned. Furthermore,

the petitioner did not reply to the letters seeking explanation from him for such absenteeism.

The petitioner duly replied to the said charge sheet.

At present, the disciplinary proceeding against the petitioner is being continued at the Basirhat Sub-Divisional Office of WBSEDCL.

Mr. Chatterjee, learned counsel appearing on behalf of the petitioner submits that the petitioner is not receiving any salary from June 2022. Furthermore, since the petitioner has not been officially placed under suspension, the petitioner is also not receiving any subsistence allowance. Therefore, he prays for release of subsistence allowance on the ground that the petitioner's absence should be held as deemed suspension by the authorities.

Mr. Koley, learned counsel appears on behalf of the employer/WBSEDCL. He submits that since the petitioner has not joined his transferred place of posting, there is no question of disbursement of any salary in his favour. Furthermore, the petitioner has not been placed on suspension. Therefore, there can be no question of granting him any subsistence allowance.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view

that the petitioner should be allowed to join at his transferred place of posting at Malda without prejudice to his rights and contentions regarding the legality or propriety of the said transfer. The respondents will disburse the salary of the petitioner from the date of his joining.

Since nothing further remains to be adjudicated in the present writ petition, **W.P.A. 16979 of 2022** is **disposed of**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the writ petition are deemed not to have been admitted by the parties.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

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

(Lapita Banerji, J.)