

Item-
ML-50. 09-10-2023

sg Ct. 8

MAT 1536 of 2023
CAN 1 of 2023

Swapan Kumar Sau
Versus
The State of West Bengal & Ors.

Mr. Anindya Bose, Adv.
Mr. Mridul Biswas, Adv.
...for the appellant
Mr. Kanailal Samanta, Adv.
...for the respondent no. 8
Mr. Santanu Kr. Mitra, Adv.
Ms. Rama Haldar, Adv.
...for the State

1. We have heard the learned Counsel for the parties.
2. It appears that, on the basis of a complaint by the petitioner/appellant who happens to be an Assistant Teacher of Debhog Shyamacharan Milan Vidyapith, a criminal proceeding was initiated against the respondent no.8. The respondent no.8 is an Ex-Headmaster of the school. The complain relates to illegal deduction of certain amount from the salary of the appellant.
3. The appellant contends that it has been done motivatedly and with malafide intention, whereas the respondent no.8 has contended that it was towards payment of certain loan taken by the writ petitioner from the group of Cooperative Society of the teachers.
4. Thus, it appears to be the only contemptuous issue for which a criminal complaint was lodged. It further appears that the Ex-Secretary of the school also filed a compliant against the respondent no.8. The investigating agency proposed to drop the said Police Case registered with Bhawanipur Police

Station Case No. 14 of 2012 for lack of evidence. But subsequently, the revisional Court in CRR 450 of 2022, permitted the Ex-Secretary to file a petition of complaint before the Magistrate under Section 200 of the Code of Criminal Procedure, 1973.

5. In the conspectus of the aforesaid fact, the disbursing authorities have to grant full pension to the petitioner. Paragraph 19(5) of the Scheme 1981 prohibits disbursement of the final pension, gratuity, etc. on a plea against whom departmental/judicial proceedings have been instituted and/or continued.
6. We agree with the learned Single Judge that the petitioner has unduly enlarged the scope of the said section to settle the personal vendetta against the respondent no.8. The concerned authority is the best judge to consider whether the pending criminal proceedings attract the aforementioned paragraph of the said scheme in disbursing the retiral benefit of the respondent no.8 or not.
7. Admittedly, there is no charge against the respondent no.8 of any defalcation or mismanagement. It appears to be a personal dispute between the petitioner and the respondent no.8. As observed by the learned Single Judge, the writ petitioner may not have the locus to challenge the decision of the authority concerned in disbursing the retiral benefits and payment of pension.
8. On such consideration, we are in agreement with the learned Single Judge that the appellant has no locus to file the writ petition. However, in the facts of the above case, we set aside

the order of cost.

9. The appeal and the application are accordingly, disposed of.

However, there shall be no order as to costs.

10. The certified copy of the judgement filed is kept with the record.

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

(Uday Kumar, J.)

(Soumen Sen, J.)