

Dd 17 19.07.2023

WP.ST 289 of 2012
with
I.A NO: CAN 1 of 2015 (Old NO: CAN 8269/2015)

Dr. Dipak Chatterjee
Vs.
State of West Bengal & Ors.

Mr. Srijib Chakraborty,
Mr. Kushal Chatterjee,
Mr. Subhasis Chakraborty,
Ms. Sushmita Kumari Singh, Advocates
... ... For the Petitioner

Mr. Tapan Kr. Mukherjee, AGP
Ms. Tuli Sinha, Advocate
... ... For the State

The writ petition is directed against an order dated April 11, 2012 passed in OA 289 of 2010 by the West Bengal Administrative Tribunal.

By the impugned order, the challenge to an order of punishment levied against the petitioner was negated.

It is the contention of the writ petitioner, referring to the articles of charges that, the petitioner was proceeded against in the disciplinary proceeding on the basis of unauthorized leave for a period from November 6, 1992 to November 5, 1997.

Referring to a notification dated November 11, 2009, it is contended that, the Governor was pleased to grant the petitioner leave for the period from November 6, 1992 to November 5, 1997 and, therefore, the question of the disciplinary proceeding surviving the notification dated November 11, 2009 does not arise. The period of absence was regularized by the

authorities and, therefore, the question of unauthorized absence was no longer available as a charge as against the petitioner.

State is represented.

The petitioner was proceeded against in a departmental proceeding for unauthorized absence from November 6, 1992 to November 5, 1997. An inquiry was conducted. The Inquiry Authority submitted a report. Thereafter, a charge sheet was issued as against the petitioner which contains the allegation of unauthorized absence for the period as noted above.

In the disciplinary proceeding, prosecution witnesses were examined. The writ petitioner expressed his unwillingness to cross-examine the prosecution witnesses. The Disciplinary Authority found the writ petitioner guilty of the charges framed against him and proposed to impose penalty of reduction of pay by five stages lower in the time scale of pay for one year during which he will not earn his increments and after expiry of such period the reduction will have the effect of postponing his future increments of pay.

State consulted the Public Service Commission, West Bengal with the request to communicate the Commission's advice on the punishment proposed to be imposed on the petitioner. Public Service Commission, agreed with the issue of guilt and recommended to impose penalty of reduction of pay by three stages lower in the time scale of pay for one year with stipulation that the petitioner will not earn increments during period of reduction of pay and after expiry of such period reduction will have the effect of postponing his future increments of pay. Public Service Commission also advised that writ petitioner shall be debarred from

promotion during the period of his undergoing penalty and such debarment from promotion shall be incorporated in the order distinctly as a direction.

Agreeing the recommendation of the Public Service Commission, an order of punishment was issued to the petitioner.

There is a notification dated November 11, 2009, where the period of unauthorized leave to the petitioner, which he was charged with, was directed to be adjusted in the manner specified therein.

Admittedly, the petitioner was absent for the period from November 6, 1992 to November 5, 1997. This period of service is required to be adjusted in the service career of the petitioner in a manner known to law. This adjustment was done by the notification November 11, 2009. It is nobody's case that the adjustment directed is contrary to law. This adjustment cannot be construed that the disciplinary authority accepted the absence of the writ petitioner for the period for which the adjustment was directed. The adjustment is consequential to the finding of guilt as against the petitioner. Absence for the period is sought to be adjusted in the manner as specified.

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

WP.ST 289 of 2012 is accordingly **dismissed**. All connected application are also dismissed.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

