

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

**WP.ST 158 of 2016
With
IA No.: CAN 1 of 2020, CAN 2 of 2020**

**Sk Abdul Rahaman
Vs.
The State of West Bengal & Ors.**

For the petitioner : Mr. Kallol Basu
Mr. Suman Banerjee

For the State : Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar

Heard on : June 22, 2023

Judgment on : June 22, 2023

DEBANGSU BASAK, J.:-

1. The writ petitioner is aggrieved by an order dated July 18, 2016 passed in OA-80 of 2015.
2. By the impugned order, the learned Tribunal was pleased to hold that the original application filed by the writ petitioner was devoid of any merit and was pleased to reject the same.

3. Learned Advocate appearing for the writ petitioner submits that, the writ petitioner was discharging function as a Block Land & Land Reforms Officer, being promoted to such post. The nature of duties required to be discharged by Block Land & Land Reforms Officer includes deciding of several applications under the provisions of the West Bengal Land Reforms Act, 1955. In one of such applications, the writ petitioner decided an issue in favour of a private respondent. The disciplinary proceedings were initiated as against the writ petitioner, inter alia, on the ground that the writ petitioner passed wrong order in respect of such proceedings and, therefore, caused revenue loss to the State. He submits that, the entirety of the article of charges revolve around one particular proceeding. He submits that, the issue in such proceedings, was made subject-matter of a writ petition filed before this Hon'ble Court. Such writ petition was disposed of by a judgment and order dated March 8, 2011. In such judgment and order, the Hon'ble High Court did not find any error in the action taken by the writ petitioner in re-working the record of rights.

4. Learned Advocate appearing for the writ petitioner relies upon (1999) 7 Supreme Court Cases 409 (Zunjarrao Bhikaji Nagarkar vs. Union of India and Others) and submits that there does not exist any reasonable basis for the disciplinary authority to proceed as against the writ petitioner particularly when the writ petitioner was discharging duties under a statute.
5. The writ petitioner was discharging quasi-judicial functions. In order to constitute misconduct with regard to discharge of quasi-judicial functions, there should not only be carelessness, inadvertence or omission but a culpable negligence. In the facts of the present case since the High Court held that the act done by the writ petitioner in re-working the record of rights was correct, therefore, it cannot be said that, the writ petitioner acted carelessly or negligently.
6. As noted above, none is present to contest the writ petition on behalf of the State.
7. In the facts of the present case, disciplinary proceedings were initiated as against the writ petitioner for actions taken

by the writ petitioner quo discharge of his quasi-judicial function as a Block Land & Land Reforms Officer. The article of charges, as against the writ petitioner revolves around re-working of record of rights in respect of different plots of Mouza-Podda, J.L. No.61, Police Station-Mayureswar, District-Birbhum.

8. The issue with regard to such plots of land received the consideration of the West Bengal Land Reforms Tribunal in original application.
9. A writ petition was filed against such order. Such writ petition being WPLRT 31 of 2011 was disposed of by an order dated March 8, 2011. In such order, the High Court held that, the Revenue Officer by the order dated March 23, 2009 was right in deciding divesting the land owned by the families of the writ petitioners in such writ petition.
10. Coming back to the articles of charges as against the present writ petition, it appears that the allegation is against the present writ petitioner is that, he deliberately used the official position with utter disregard to existing government

orders and establishing procedures and divested the area of 9.4 acres of land in different plots of the particular Mouza.

11. In particular, the article of charges refers to an application dated May 7, 2008 filed by Ekkari Mondal and his two sons Rabindranath Mondal and Subhash Chandra Mondal which resulted in the writ petitioner working the vesting of the land allegedly to the projects of the State.
12. The record of the proceedings by which, the writ petitioner dealt with the application of Ekkari Mondal and his two sons dated May 7, 2008 are annexed to the present writ petition. It resulted in an order dated March 23, 2009. The order dated March 23, 2009 of the writ petitioner was assailed right up to the High Court. By an order dated March 8, 2011 passed in WPLRT 31 of 2011, the High Court found that, the Revenue Officer by the order dated March 23, 2009 rightly decided vesting the lands owned by the families of Ekkari Mondal. The validity, legality and sufficiency of the order dated March 23, 2009 passed by the writ petitioner discharging functions as Block Land & Land Reforms Officer, was upheld by the High Court. The High Court also

directed that, taking immediate steps for divesting the land in question in favour of Ekkari Mondal and his two sons in terms of the order dated March 23, 2009 and corrected the relevant record of rights in such land in question.

13. *Zunjarrao Bhikaji Nagarkar (supra)*, deals with disciplinary proceedings as against a Commissioner of Central Excise exercising jurisdiction under the provisions of the Excise Law. There, departmental proceedings were initiated on the basis of alleged misconduct where the delinquent was alleged to be favouring an assessee by not imposing any penalty even when such party clandestined, manufactured and cleared excisable goods and evaded excise duty willfully.
14. In the facts of that case, the Supreme Court held that a wrong interpretation of law cannot be a ground for misconduct. It is a different matter altogether if it is deliberate and actuated by mala fides. Negligence in quasi-judicial adjudication is not casualness, inadvertence or omission but a culpable negligence. It also held as follows:

“43. If every error of law were to constitute a charge of misconduct, it would impinge upon the independent functioning of quasi-judicial officers like the appellant. Since in sum and substance

misconduct is sought to be inferred by the appellant having committed an error of law, the charge-sheet on the face of it does not proceed on any legal premise rendering it liable to be quashed. In other words, to maintain any charge-sheet against a quasi-judicial authority something more has to be alleged than a mere mistake of law, e.g., in the nature of some extraneous consideration influencing the quasi-judicial order. Since nothing of the sort is alleged herein the impugned charge-sheet is rendered illegal. The charge-sheet, if sustained, will thus impinge upon the confidence and independent functioning of a quasi-judicial authority. The entire system of administrative adjudication whereunder quasi-judicial powers are conferred on administrative authorities, would fall into disrepute if officers performing such functions are inhibited in performing their functions without fear or favour because of the constant threat of disciplinary proceedings.”

15. In the facts of the present case, a charge sheet is sought to be maintained against a quasi-judicial authority. There is nothing on record apart from adjudication of misconduct as against the writ petitioner, that there was any extraneous consideration involved influencing its order dated March 23, 2009. In fact, its order dated March 23, 2009 was found to be correct in law by the High Court and the High Court directed implementation thereof. In such circumstances, the substratum of the charge sheet fails. Consequent

thereon, the disciplinary proceedings as against the writ petitioner must fail.

16. The Court is informed that the writ petitioner superannuated during the pendency of the proceedings on January 31, 2021. He be offered all his retiral benefits treating him to be in the post that he was last in prior to the initiation of the disciplinary proceedings. His retiral benefits be released forthwith and not later than four weeks from date.
17. **WP.ST 158 of 2016** is disposed of accordingly.
18. In view of the disposal of the main writ petition, nothing survives in the interlocutory applications and as such, CAN 1 of 2020 and CAN 2 of 2020 are disposed of.

(Debangsu Basak,J.)

19. I Agree.

(Md. Shabbar Rashidi, J.)