

DL-11

21.08.2023
Court No.5
(AD)

WP.ST 311 of 2012

**The State of West Bengal & Ors.
Vs.
Mantu Pada Ghosal**

Mr. Ram Mohan Pal

... for the petitioners.

*Mr. Swapan Kumar Nandi
Mr. Debjyoti Ghosh*

... for the respondent.

The writ petition is directed against an order dated March 16, 2012 passed by the West Bengal Administrative Tribunal in OA-974 of 2010.

By the impugned order, the Tribunal set aside the decision of punishment as upheld by the appellate authority against the private respondent, *inter alia*, on the ground that, two vital witnesses were not examined in the departmental proceedings.

The two vital witnesses, complained of, are the Chief Judicial Magistrate as also the Sub-Divisional Police Officer.

The private respondent was engaged by the police to work at the office of the General Record Officer attached to the Barasat Court.

The private respondent was found in dereliction of duties. A disciplinary proceedings was initiated.

In the departmental proceedings, both the then

Sub-Divisional Police Officer as also the Chief Judicial Magistrate were examined. Sub-Divisional Police Officer was examined as prosecution witness no.1 and the then Chief Judicial Magistrate as prosecution witness no.6.

Evidence led was evaluated initially by the Enquiry Officer who found the charges to be established.

Disciplinary authority imposed punishment as against the private respondent. Appeal carried against the order of punishment was dismissed.

The private respondent approached the Tribunal against the order of punishment as upheld on appeal.

The Tribunal by the impugned order dated March 16, 2012 found that two vital witnesses were not examined and, therefore, proceeded to set aside the order of punishment as upheld by the appellate authority as against the private respondent.

As noted above, the two witnesses whom the Tribunal stated in its impugned order not to be examined were actually examined. Their evidence was evaluated.

The foundational basis, therefore, of the impugned order does not exist.

The private respondent was heard in the departmental proceedings. He also carried an appeal. The order of the disciplinary authority is not vitiated by the principles of natural justice. Appellate Authority's order also contains reasons.

In such circumstances, we set aside the impugned order of the Tribunal dated March 16, 2012.

WP.ST 311 of 2012 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

