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04.10.2023
D.Hira
Court No. 12

**In The High Court At Calcutta
Civil Appellate Jurisdiction
Appellate Side**

MAT 1482 of 2012

**Ram Gupta
Versus
The State of West Bengal & Ors.**

**Mr. Abdul Hadi.
... for the appellant**

**Mr. Sujit Sankar Kole.
... for the WBSEDCL**

The appellant while working in West Bengal State Electricity Board as a Senior Record Supplier, was issued a charge memo stating that contrary to the Regulation he was engaged in a business/trade without obtaining previous sanction from the Board. A domestic enquiry was conducted and witnesses were examined to substantiate the charges levelled against the appellant. The appellant did not cross-examine the witnesses and also did not examine any witness to disprove the charges. The Enquiry Officer considering the evidence both oral and documentary held that charges levelled against the appellant were proved. The Disciplinary Authority accepted the report of the Enquiry Officer and considering all the materials placed, imposed punishment of reversion to the post of

Record Supplier. The appeal filed by the appellant was dismissed by the Appellate Authority.

The appellant filed the writ petition being W.P. No. 6062 (W) of 2008 challenging the said orders.

The Learned Single Judge considering the materials placed before him and Regulation 43 of the West Bengal State Electricity Board Employees' Service Regulations dismissed the writ petition.

Against the said order of dismissal of writ petition, the appellant has come out with the present appeal.

Learned counsel appearing for the appellant submitted that the appellant did not engage in any trade but he was helping his friend by name Chandan to look after his property. The Power-of-Attorney in favour of the appellant is given only for looking after the property and not the power to sell the property. The appellant was not permitted to cross-examine the witnesses, and not permitted to let in evidence. Disciplinary Authority erroneously held that the appellant was engaged in business. The Appellate Authority erroneously dismissed the appeal. The punishment imposed on the appellant is disproportionate to the charges levelled against him. Learned Judge without properly appreciating the materials and erroneously relied on Regulation 43 of the West Bengal State Electricity Board Employees' Service Regulations which is not applicable to the facts

of the case, dismissed the writ petition and prayed for setting aside the order of the learned Single Judge and allow the appeal.

Learned counsel appearing for the respondents submitted that the petitioner while working as Senior Record Supplier without any permission from the Board engaged in the business contrary to Regulation 43 of the West Bengal State Electricity Board Employees' Service Regulations. After following the procedure by issuing the charge memo, conducting domestic enquiry a minor punishment of reversion was imposed on the appellant. The punishment imposed is proportionate to the charges levelled against the appellant. The Disciplinary Authority after considering the report of the Enquiry Officer imposed punishment. The Appellate Authority dismissed the appeal. There is no reason to interfere with the order of the Disciplinary Authority, Appellate Authority and order of the learned Single Judge and prayed for dismissal of the appeal.

Heard Mr. Abdul Hadi learned counsel appearing for the appellant and Mr. Sujit Sankar Kole, learned counsel appearing for the respondents and perused the entire materials on record.

It is contention of the learned counsel for the appellant that he was not permitted to cross-examine and not permitted to examine the witnesses on his behalf. The said contention of counsel for the appellant

is contrary to the materials on record. The Power-of-Attorney in favour of the appellant clearly reveals that appellant was involved in a joint venture business and empowered to sell the flats except one flat. The involvement of appellant in selling flats is clearly proved by examining Bownik the complainant who has stated that appellant received Rs.1,50,000/- from him as advance to sell a flat and due to the dispute he issued three cheques for return of Rs.1,50,000/- which is dishonoured on presentation. The appellant himself had admitted receiving Rs.1,50,000/- from bownik and issuing three cheques. The appellant did not cross-examine the said Bownik and other witnesses and did not examine any witness on his behalf to prove his case. The contention of the learned counsel for appellant that appellant was not permitted to cross-examine the witnesses and was not permitted to let in evidence in domestic enquiry is not acceptable. If really, the appellant was not permitted to cross-examine the witnesses or let in evidence he ought to have submitted his objection in writing to the Enquiry Officer. No such document was produced by the appellant to prove the said contention.

The Disciplinary Authority elaborately considered both oral and documentary evidence and accepted the report of the Enquiry Officer that charges levelled against the appellant were proved. The Disciplinary

Authority has given cogent and valid reason for holding that charges levelled against the appellant were proved.

From the above materials it is clear that the charges levelled against the appellant were proved by both oral and documentary evidence. The Disciplinary Authority imposed punishment of reversion, which is not disproportionate to the proven charges. Learned Single Judge has considered all the materials available before him and dismissed the writ petition. We see no reason to interfere with the order of the Disciplinary Authority, Appellate Authority and the order of the learned Single Judge.

The appeal fails and dismissed.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)