

02-03
11.10.2023
Ct. No. 15
BD.

W.P.A. 18286 of 2009

**Md. Nurul Basar
Vs.
The Birbhum District Central
Co-operative Bank Limited & Ors.**

With
W.P.A. 18698 of 2008
**Md. Nurul Basar
Vs.
The Birbhum District Central
Co-operative Bank Limited & Ors.**

IA NO. CAN 1/2009 (Old NO. CAN 9948/2009)
IA NO. CAN 2/2010 (Old NO. CAN 1172/2010)
IA NO. CAN 3/2010 (Old NO. CAN 5166/2010)

Mr. Kishore Mukherjee ...for the petitioner

Mr. Saikat Chatterjee ...for the respondent nos. 1 & 2.

Mr. Ankit Sureka
Mr. Biplab Das ...for the respondent no. 4

Two writ petitions are taken up for consideration in presence of the learned advocates representing the petitioner, Birbhum District Central Co-operative Bank Limited and Assistant Registrar of Cooperative Societies being respondent no. 4.

These two writ petitions centre around initiation of disciplinary proceeding against the petitioner who was an employee of Birbhum District Central Co-operative Bank Limited. During course of hearing notice of this Court has been drawn to an interim order dated 11th September, 2008 passed by K.J.Sengupta,J., on the writ petition being WPA 18698 of 2008 whereby this Court permitted the disciplinary authority to continue the disciplinary proceeding which was initiated against the

petitioner and conclude the same within a particular time. Vide said order dated 11th September, 2008 disciplinary authority was also directed to pass final order with a rider that the effect of the final order not to be given without the leave of the Court. However, such interim order was passed for a limited period. Subsequently Jayanta Kumar Biswas, J., passed an order on 17th February, 2010 thereby refused to extend the interim order any further which was previously passed on 11th September, 2008.

Today, at the time of hearing of these two writ petitions the learned advocate representing Birbhum District Central Co-operative Bank Limited has placed before this court the final order of punishment dated 29th April, 2010 wherefrom it transpires that petitioner has been dismissed from service. This order of dismissal dated 29th April, 2010 is not the subject matter of challenge in present writ petitions. However, initiation of proceeding at the instance of the Bank authority is questioned in these two writ petitions.

It has been jointly submitted by the learned advocates representing the parties that there is a provision of preferring an appeal before the Appellate Authority against this order of punishment dated 29th April, 2010 passed by the disciplinary authority.

Learned advocate representing the petitioner submits that the petitioner is willing to prefer an appeal against this order of dismissal.

In view of such submission made on behalf of petitioner and in consideration of existence of Appellate Authority these two writ petitions are disposed of by permitting the petitioner to prefer an appeal before the Appellate Authority within thirty days from date. It is required to be recorded herein that copy of the order of dismissal dated 29th April, 2010 has not been previously communicated to the petitioner which prevented the petitioner to prefer an appeal before the Appellate Authority. Today during course of hearing copy of the said order dated 29th April, 2010 is made over to the learned advocate representing the petitioner. If such appeal is preferred within the aforesaid time before the Appellate Authority the said Appellate Authority shall dispose of the same preferably within a period of three months from the date of filing of the appeal after granting opportunity of hearing to the petitioner as well as disciplinary authority.

With the aforesaid direction these two writ petitions stand disposed of.

Applications if pending also stands disposed of.

There shall be no order as to costs.

However, it is made clear that Court has not gone into the merit of the disciplinary proceeding which has been initiated against the petitioner.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)