

09.08.2023
Item No.11
Ct. No.5
CHC
(disposed of)

WP.ST 398 of 2013

Md. Kamaluddin Ansari
Vs.
The State of West Bengal & ors.

Mr. Bikash Ranjan Neogi,
Mrs. Soma Chakraborty,
Mr. Guddu Singh
...for the writ petitioner

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Mr. Somnath Naskar
...for the State

In assailment is the order dated November 11, 2010 passed by the West Bengal Administrative Tribunal in O.A. No.1965 of 2008.

A disciplinary proceeding was initiated as against the writ petitioner. A show-cause notice was issued as against the writ petitioner prior to his superannuation, which the petitioner replied to. No steps was taken in respect of such reply to the show-cause notice. Petitioner was allowed to superannuate in 2007. A second show-cause notice, subsequent to his superannuation was issued in 2010 in respect of the same disciplinary proceeding.

Learned advocate appearing for the petitioner submits that the second show-cause notice was issued *mala fide*. The petitioner was allowed to superannuate in 2007 without disposal of the reply to

the first show-cause notice and without communicating the decision of the disciplinary authority with regard thereto.

Learned Senior Advocate appearing for the State submits that, the service rules of the writ petitioner permit continuation of the disciplinary proceeding subsequent to his superannuation. In the facts of the present case, disciplinary authority considered it appropriate to issue the second show-cause notice in 2010 subsequent to the superannuation of writ petitioner and that such action cannot be visited with any illegality.

No doubt, any disciplinary proceeding can be continued subsequent to superannuation of a delinquent if such continuance is permitted by the rules governing the delinquent. In the facts of the present case, we find that, the writ petitioner replied to the first show-cause notice without being communicated the decision on the first show-cause notice and the reply thereto. He was allowed to be superannuated. Subsequent to his superannuation, after a lapse of three (03) years therefrom the second show cause notice was issued without informing the writ petitioner as to the fate of the first show-cause notice.

In the facts and circumstances of the present case, we find that, continuance of further proceeding,

given the time period involved and the conduct of the disciplinary authority, would not subserve the interest of justice.

The Court is informed that petitioner is receiving provisional pension.

In such circumstances, disciplinary proceeding as against the writ petitioner is quashed.

Authorities will disburse pension to the writ petitioner in accordance with law.

The impugned order dated November 11, 2010 of the Tribunal is set aside.

WP.ST 398 of 2013 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)