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02.02.2024
Ct. No. 11
Jayanta

WP.CT 33 of 2024

Arijit De.
Vs.
Union of India & Ors.

Mr. S. K. Dutta
Mr. Chiradip Sinha
Mr. Barun Chatterjee
..... For the petitioner.

Mr. Rajesh Kumar Shah
..... For the Respondents/UOI.

This writ petition was instituted to call in question the order dated 13th December, 2023 passed by the learned Tribunal in O. A. No. 350/00050/2022 whereby the learned Tribunal disposed of the original application without granting any relief as prayed for therein.

Shorn of unnecessary details, the essential facts required to be stated for effective adjudication of this writ petition are that a disciplinary proceeding was initiated against the applicant *vide* charge sheet dated 29th November, 2019. In the charge sheet, two documents, proposed to be relied upon by the management were video files containing the video recording made on 8th April, 2019 and audio recording pertaining to the conversation made between one Shri Arijit De, ASP, CBI/ACB/Kolkata and Shri Susanta Sarkar/Shri Pintu Sharma over telephone.

Mr. Dutta, learned advocate for the petitioner submits that a pen drive containing the copy of that video files and the transcription of audio recording of the conversion were supplied to the petitioner. Petitioner made applications before both the inquiring authority as well as the disciplinary authority for supply of the original audio recording and the original video recording made on 8th April, 2019 but the authorities took the stand that those were not available.

Ultimately, the disciplinary authority *vide*. his letter dated 11th August, 2021 gave a direction that the enquiry officer must obtain the original/authentic/certified documents/article from the competent authority for using them as exhibits in the enquiry.

Mr. Dutta, further contends that the petitioner raised objection against acceptance of those documents as evidence and even the petitioner vehemently objected to the exhibition of such documents yet ignoring such objection the enquiring authority has accepted those documents as evidence and marked as exhibits.

Aggrieved thereby, the petitioner approached the learned Tribunal by preferring the original application being O. A. No. 350/00050/2022 but the learned Tribunal has glossed over the issue and has not returned any finding on the issue urged by the applicant.

Mr. Dutta, learned Advocate further submits that if the inquiring authority is allowed to proceed with the departmental enquiry on the basis of such documents, which were improperly and illegally accepted as evidence, the petitioner will be highly

prejudiced. Accordingly, the inquiring authority and the disciplinary authority should be asked not to proceed with the departmental enquiry against the petitioner.

Mr. Shah, learned advocate for the respondent/UOI has vehemently opposes such prayer of Mr. Dutta. He submits that such direction should not be given at this stage.

Heard the learned advocates, perused the materials on record.

From the order under challenge in the writ petition, it transpires that the learned counsel for the respondents submitted before the learned Tribunal that if the original video recording is found before completion of enquiry proceedings the same will be placed on record and inspection to it shall be provided to the petitioner.

In view thereof, the learned Tribunal observed that the considering the apprehension ventilated by the applicant in respect of non-availability of the original video recording and the audio recording, the enquiry officer had already taken necessary steps in this regard and afforded opportunity to the petitioner to inspect the certified copies of those documents. The learned Tribunal specifically observed that the enquiry officer under statutory obligation to use original/authenticated/certified documents/articles for making them as exhibits during the proceedings and for this reason the Tribunal refused to exercise its discretion at this stage. Needless to state that since the enquiry proceeding is still going on, it would be premature to make any observation on the issue of acceptance of those documents as evidence.

The learned Tribunal upon dealing with the all factual issues arrived at specific finding we do not find any patent error, least to say any patent error of the law in the order impugned. The order also does not suffer from any jurisdictional error warranting interference of this court.

Accordingly, the writ petition being No. WPCT 33 of 2024 is thus disposed of.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)