

14.06.2024

**Sl. No. 11
Ct. No. 23
Srimanta**

WPA/10312/2024

**Sri Ramen Chandra Das
-Vs.-
State of West Bengal & Ors.**

Mr. Goutam Dey,
Ms. Ankita Ghosh,
Mr. Ankan Mondal

...for the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mandal

...for the respondent nos. 3 to 6.

It appears from the affidavit-in-opposition filed by the respondent no. 5 in a previous writ petition instituted by the petitioner being WPA/2038/2022 which is annexed at page 36 of this writ petition that the petitioner was served with a show cause notice dated 2nd July, 2019 asking him to give explanation within 72 hours from the receipt of the said letter. The petitioner replied to the same which was found unsatisfactory and as a result the Chief General Manager, Mother Dairy, Calcutta (respondent no. 4) placed the petitioner under suspension with effect from 4th July, 2019. A charge-sheet was issued imputing the petitioner of misconduct. By an order dated 15th July, 2019 the respondent no. 4 appointed Manish Verma as the Enquiry Officer (in short, EO) and Tushar Chattopadhyay as the Presenting Officer. The petitioner was directed to appear before the enquiry committee on 7th August, 2019. Ultimately, the petitioner was removed from his service by an order dated 1st March, 2020. The petitioner challenged the said order by filing the writ petition being WPA/2038/2022. The said writ petition was

disposed of by an order dated 21st September, 2023. The operative portion of the said order is set aside hereunder:-

"6. Upon going through the order of the disciplinary authority dated March 2, 2020 this Court is of the considered view that the said order is an unreasoned one. The disciplinary authority has to assign reasons as to why such authority was of the view that the service of the petitioner is to be terminated. Merely by making a reference to the report submitted by the Inquiry Committee, an order of termination in the manner as indicated hereinbefore could not have been passed. This, in the considered view of the Court, amounts to violation of the principles of natural justice. For such reason, the order dated March 2, 2020 is set aside and quashed.

7. The respondent authority is directed to supply a copy of the inquiry report to the petitioner and after giving an adequate opportunity to the petitioner to reply to the same proceed thereafter in accordance with the relevant service rules, if the same is permissible at this stage."

The respondents have served the inquiry report vide a letter dated 4th January, 2024. The petitioner in terms of the order dated 21st September, 2023 was required to reply to the inquiry report. The petitioner has not replied to the same instead filed this writ petition on 9th April, 2024 challenging the inquiry report. Without having preferred an appeal against the order dated 21st September, 2023 petitioner now cannot fall back and challenge the inquiry report as the procedure post-service of the enquiry report has been clearly laid down in the said order. The writ petition, therefore, does not warrant consideration at this stage and is accordingly disposed of by allowing

the petitioner time till 28th June, 2024 to reply to the inquiry report as directed by the order dated 21st September, 2023. The disciplinary authority after receiving the petitioner's reply shall proceed to decide the issues involved in the disciplinary proceedings initiated against the petitioner in accordance with law following the principles of natural justice and the applicable rules.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)