

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

FMA 755 of 2024

With

IA No.: CAN 1 of 2024

Saroj Kumar Guha

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Amlan Jyoti Sengupta, Advocate

Heard & Judgment on : September 2, 2024

DEBANGSU BASAK, J.:-

1. Appeal is directed against the judgment and order dated April 2, 2024 passed in WPA 14727 of 2006.
2. By the impugned judgment and order, learned Single Judge dismissed the writ petition assailing an order passed in the disciplinary proceedings initiated as against the appellant/writ petitioner.
3. Learned Advocate appearing for the appellant submits that, the appellant was initially engaged as a contractual employee. His tenure of employment was extended from time to time. Thereafter, such extension was not granted. Appellant moved a writ petition. He refers to orders passed in such writ petition.
4. Learned Advocate appearing for the appellant submits that, subsequent to first writ petition, the appellant was taken back in service. A

disciplinary proceedings was initiated. In such disciplinary proceedings, he was found guilty. He refers to the order passed by the disciplinary authority.

5. Learned Advocate appearing for the appellant submits that, other contractual employees engaged along with the appellant were regularized. Appellant was unfairly treated.
6. We perused the materials made available on record.
7. Appellant was sponsored by the Employment Exchange in respect of a contractual appointment. Appellant joined as Junior Assistant at a Tourist Lodge at Siliguri on April 13, 1991. His appointment was on contract basis. The period of contract was extended from time to time.
8. During the validity of the period of the contract, appellant was issued a show-cause notice dated July 9, 1992 with regard to discrimination in telephone bills and why some calls which were made were not entered in the trunk booking register. Thereafter, by a letter dated August 16, 1992, the services of the appellant was terminated with effect from such date without holding any disciplinary proceedings and without affording the appellant reasonable opportunity of hearing.
9. Appellant preferred an appeal against the order of termination dated August 16, 1992. Such appeal was not decided till 1993. Thereafter, appellant moved the High Court by way of a writ petition being C.O. No.3292 (W) of 1993. Such writ petition was disposed of by an order dated December 17, 1998 requiring the appellate authority to dispose of

the appeal within six weeks from the date of communication of such order.

10. Despite communication of the order dated December 17, 1998 passed in the writ petition, no steps were taken for disposal of the appeal. Appellant filed another writ petition being W.P. No.7824 (W) of 1999. Such writ petition was disposed of by an order dated July 3, 2002 where the learned Single Judge was pleased to quash the order of termination. Learned Single Judge directed reinstatement of the appellant. The authorities were directed to conduct enquiry by giving appropriate charge sheet in accordance with the service rules and conduct disciplinary proceedings, if required.
11. Appellant filed an application for contempt alleging violation of the order dated July 3, 2002 passed in W.P. No.7824 (W) of 1999. Such contempt petition was disposed of by an order dated June 10, 2003 by observing that subsistence allowance although paid in part, the disciplinary proceeding was not concluded. The authorities were directed to pay the subsistence allowance till the completion of the disciplinary proceeding. The second contempt petition was disposed of by the learned Judge on July 22, 2004 without passing any order. Application for recalling of the order dated July 22, 2004 was disposed of on May 5, 2005 refusing to recall the order.
12. Enquiry with regard to the alleged misdeeds of the appellant was undertaken. Appellant was essentially charged with defalcation of funds

of the employees. Enquiry report was considered by the disciplinary authority. Disciplinary authority found the charges as against the appellant to be proved. Disciplinary authority passed an order of dismissal from service as against the appellant. Appellant assailed the order of the disciplinary authority in the writ petition which was disposed of by the impugned order.

13. Appellant was heard at the enquiry and the disciplinary proceedings stage. Breach of principles of natural justice causing any prejudice to the appellant is not established. Decision of the disciplinary authority contains reasons. Quantum of punishment is in the domain of the employer. Punishment imposed cannot be said to disproportionate to the charges established. Charge of defalcation of money stands established as against the appellant.
14. In such circumstances, we find no ground to interfere with the impugned judgment and order of the learned Single Judge.
15. **FMA 755 of 2024** along with all connected applications are dismissed without any order as to costs.

(Debangsu Basak, J.)

16. I agree.

(Md. Shabbar Rashidi, J.)