

14.05.2024
Item No.10
Court No.11
Avijit Mitra

WPCT 133 of 2024

In re: An application under Article 226 of the Constitution of India;

And

**U. Kameswari
- Versus -
The Union of India & ors.**

Mr. Sibaji Kumar Das,
Mr. Soumyajit Das Mahapatra,
Mr. Ahasan Ahmed
... for the petitioner
Mr. Soumak Bera
...for the respondents

Affidavit-of-service filed by the petitioner be kept on record.

The present writ petition has been preferred challenging an order dated 14th December, 2023 passed by the learned Tribunal in the original application being O.A. No.350/00848/2021. By the said order the learned Tribunal refused to restrain the respondents from continuing with the disciplinary proceeding initiated against the petitioner herein *vide* chargesheet dated 10th March, 2021 and directed the disciplinary authority (hereinafter referred to as DA) to complete the said proceeding expeditiously strictly as per the procedure laid down in the extant rules. By the said order it was also directed that the petitioner should be given

adequate opportunity to defend herself against the charges framed and the DA shall take a decision in a judicious manner.

Mr. Das, learned advocate appearing for the petitioner submits that the charges framed against the petitioner are absolutely unfounded. The primary allegation levelled against the petitioner is that she had sublet the railway quarter allotted to her to an outsider for her personal pecuniary gain though the petitioner herself by a representation dated 5th March, 2019 had sought for permission from the competent authority for sharing accommodation in the said quarter with a relative. Without disposing of the said representation, the impugned chargesheet had been issued. In the midst thereof, an enquiry was conducted on 12th November, 2020 and the enquiry officer arrived at a finding that *‘during the course of enquiry it has been found suspicious whether U. Kameswari herself resides at the said quarter’*. In the said conspectus, the charges framed are not sustainable. Such argument, as advanced, was glossed over by the learned Tribunal.

Mr. Das further submits that the learned Tribunal on earlier occasion passed an *interim* order directing the respondents to stay their hands off in allotting the quarter to any other Railway Servant till the returnable date. Thereafter, the matter was heard

on 31st August, 2021 and the respondents were directed not to proceed with the enquiry any further till the next date. The *interim* order passed in the original application had continued till the date of final hearing on 14th December, 2023. However, the original application was ultimately disposed of by the order impugned denying the relief as sought for by the petitioner and that too without any reason. In view of the infirmities apparent on the face of the records, interference is called for in the present writ petition.

Mr. Bera, learned advocate appearing for the respondents, however, denies and disputes the contention of the petitioner and submits that the chargesheet does not suffer from any jurisdictional error. The issue as regards subletting involves disputed question of facts and the same can only be decided upon allowing the respondents to complete the disciplinary proceeding. In view thereof, there is no justification to stall the disciplinary proceeding.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, no jurisdictional error towards issuance of the chargesheet has been alleged in the original application. The grievance of the petitioner is that sharing of the quarter with a relative had been

illegally construed to be an act of subletting. Such issue, in our opinion, involves disputed question of fact, which can only be decided in the disciplinary proceeding.

In the said conspectus, the learned Tribunal refused to exercise discretion in favour of the petitioner and we do not find any infirmity in the order impugned.

In view thereof, no interference is called for in the present writ petition and the same is, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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