

25.01.2024
Item No.17.
Court No.26.
AB

WPA 14944 of 2017
Monoranjana Kumar Saha
Vs
Union of India & Ors.

Mr. Dilip Kumar Maitifor the Union of India.

When the matter came up for hearing last occasion on 15.12.2023, none appeared for the petitioner whereas Mr. Maity, learned Counsel appeared on behalf of the respondents and also on that date, he filed affidavit-in-opposition in the Court, which was taken on record. Therefore, this Court adjourned the matter till 18.12.2023 under the same heading for appearance of the petitioner to make his submission.

This Court also on that date directed that if no one appears on behalf of the petitioner on the next date of hearing, then this Court would likely to proceed further for hearing of this matter ex parte.

The matter has been taken up today. Even today, none appears for the petitioner whereas Mr. Maity, learned Counsel for the respondents is present.

Learned Counsel for the respondents argued that since the petitioner has challenged the charge sheet only in the prayer of the writ petition, the final

order dated 25.08.2017 was passed by imposing the punishment of removal of service of the petitioner, which was not challenged in this writ petition. Therefore, this writ petition, which was filed challenging the show cause notice, has become infructuous. Therefore, he prays for dismissal of this writ petition as infructuous.

It is admitted fact, when the matter was taken up on 29.08.2017, this Court passed an order, operative portion whereof is as follows:

“After hearing the learned Advocates for the parties I am of the view that this is not a fit case for the grant of an interim order. Prima facie I am of the view that the petitioner has not been prejudiced by the two communications made by the respondents authorities and it appears from the documents produced in Court that the petitioner had responded to the show cause notice contending the proposed punishment on June 3, 2017. Even if the writ petition has been filed on June 1, 2017, it was necessary for the petitioner to bring it on record by way of a supplementary affidavit. But for the respondents producing a copy of the said reply there was no scope for the Court to be informed about it. That apart a final order in this matter has already been passed and the petitioner has also received a copy of the same. As such there is no question of passing an interim order at this stage. However, any step taken shall abide by the result of the writ petition.”

In that order, it was made clear that if the petitioner has filed the writ petition challenging the charge sheet, this Court has pointed out that the final order dated 25.08.2017 was passed by imposing punishment of removal from service and the said order

was received by the petitioner but he has not chosen to challenge the said order dated 25.8.2017.

Admittedly, the petitioner has filed the present writ petition seeking the prayer as follows:

“(a) A Writ of or order in the nature of Mandamus directing the respondents and/or their servant and/or their agent to withdraw/cancel and/or rescind the impugned charge sheet, dated 15.7.2016, second show cause notice dated 16.4.2016 of the enquiry officer and the Sr. Divisional Security Commissioner’s Order dated 22.05.2017 in accordance with law;

(b) A Writ of or order in the nature of Mandamus directing the respondents to set aside the impugned charge sheet dated 15.07.2016, the Second Show cause notice dated 16.04.2017 and the report of the enquiry officer and the order dated 22.5.2017 indicating proposed punishment of removal of service in accordance with law.

(c) A Writ of or order in the nature of Certiorari directing the respondents to produce all the records documents before the Hon’ble Court, so that conscionable justice may be rendered in favour of the petitioner.”

Though in the writ petition, the petitioner challenged the show cause notice along with proposed punishment order dated 22.5.2017, the present writ petition was filed on 1.6.2017 and while pending writ petition, the petitioner came to know that the final order dated 25.8.2017 was passed by imposing the punishment of removal from service, was not challenged in this writ petition.

Since the writ petition has been filed challenging only the show cause notice and while the pendency of the writ petition, the final order was passed, then this writ petition becomes infructuous.

Accordingly, the writ petition is dismissed as infructuous by giving liberty to the petitioner to challenge the final punishment order dated 25.8.2017.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(M. V. Muralidaran, J.)