

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

WP.ST 131 of 2024

Utpal Kumar Basu

Vs.

The State of West Bengal and Ors.

For the petitioner

: Mr. Surajit Samanta, Advocate

Ms. Anindita Roy, Advocate

Ms. Sohini Samanta, Advocate

For the State

: Mr. Tapan Kumar Mukherjee

Ld. Sr. Advocate & Ld.AGP

Ms. Ashmita Chakraborty, Advocate

Heard & Judgment on

: September 4, 2024

DEBANGSU BASAK, J.:-

1. Writ petition is directed against an order dated June 10, 2024 passed in MA-52 of 2024 (OA-241 of 2020) by the West Bengal Administrative Tribunal.
2. Learned Advocate appearing for the writ petitioner submits that, writ petitioner challenged the vires of Rules 10(3) and 10(4) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971. He submits

that, initially, interim order prayed for was refused by the order dated August 14, 2020. Refusal of the interim order was limited to the stage then obtaining. State did not get an opportunity to file a reply was the stage then obtaining. He submits that, thereafter, State submitted a reply in the pending proceedings. Writ petitioner/applicant renewed the prayer for grant of interim stay of the departmental proceedings which was rejected by the impugned order.

3. Referring to the impugned order dated June 10, 2024, learned Advocate appearing for the writ petitioner/applicant submits that, the interim order was rejected on the ground that, there is only one Member of the West Bengal Administrative Tribunal. Therefore, a litigant should not suffer due to the absence of the adjudicator in a Tribunal.
4. State is represented.
5. We find from the records that, a show-cause notice was issued to the writ petitioner on June 20, 2018. Writ petitioner submitted a response to the show-cause notice on June 27, 2018. A charge sheet was issued as against the writ petitioner on January 3, 2020. Writ petitioner was required to appear before the Anti-Corruption Wing. Writ petitioner appeared before such Wing. Disciplinary proceedings are pending. Writ petitioner sought to assail the initiation of disciplinary proceedings and challenged the vires of Rules 10(3) and 10(4) of the West Bengal Services (Classification, Control and Appeal) Rules, 1971.

6. Writ petitioner filed OA-241 of 2020. In such OA-241 of 2020, writ petitioner filed an application for interim protection which was considered and rejected on August 14, 2020. After a lapse of about four years, writ petitioner applied afresh for the purpose of interim protection which prayer was rejected by the order dated June 10, 2024. Change circumstances for renewing the prayer for interim order is that, the State submitted a reply to the original application.
7. Both the orders dated August 14, 2020 and June 10, 2024 are assailed by way of the present writ petition.
8. Initial order of rejection of the interim order dated August 14, 2020 contains elaborate reasons as to why interim order was refused. Refusal to pass interim order on August 14, 2020 was not assailed till the present writ petition in 2024. Reasoning of the order dated August 14, 2020 is not being challenged. Rather, it is contended that, since the interim order was refused on August 14, 2020 and was limited to that stage and since, subsequent events occurred, writ petitioner is entitled to interim protection.
9. The subsequent event as noted above is the filing of a reply by the State to the original application. We are of the view that filing such reply to the original application is not a substantial alteration of the circumstances warranting revisit of the prayer for grant of interim protection. Petitioner cannot be allowed repeated bites at the interim cherry. Moreso when the initial order of refusal went unchallenged.

10. In such circumstances, we find no merit in the present writ petition.
11. **WP.ST 131 of 2024** is dismissed without any order as to costs.
12. Court is informed that, there is only one Member present in the West Bengal Administrative Tribunal. Request of the writ petitioner, therefore, for expeditious disposal of the original application is disposed of by requesting the West Bengal Administrative Tribunal to hear and decide the writ petition as expeditiously as possible immediately on formation of the quorum for doing the same.

(Debangsu Basak, J.)

13. I agree.

(Md. Shabbar Rashidi, J.)

(AD)