

02.07.2024
Item Nos.19 & 20
Court No.11
Avijit Mitra

WP.CT 178 of 2024

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

And

Radha Raman Deb
- Versus -
Union of India & ors.
with
WP.CT 179 of 2024

Radha Raman Deb
- Versus -
Union of India & ors.

Mr. Kallol Basu,
Mr. Suman Banerjee,
Mr. Swapnamoy Sarkar

...for the petitioner

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Ms. Tuli Sinha

...for the State respondents
in WP.CT. 178 of 2024

Mr. Amitesh Banerjee, Sr. Standing Counsel
Mr. Debangshu Dinda

...for the State respondents
in WP.CT. 179 of 2024

Mr. Dhiraj Trivedi,
Mr. Tirthapati Acharya,
Mr. Arijit Majumder

...for the Union of India

Mr. Suman Basu,
Mr. Sushanta Malkhandy

...for the respondent no.6

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

The petitioner preferred OA 509 of 2024 challenging
inter alia a notice dated 2nd April, 2024 and OA 575 of 2024
challenging *inter alia* a memo dated 14th March, 2024. The
writ petitions being WP.CT 178 of 2024 and WP.CT 179 of
2024 arise out of the same order dated 21st June, 2024

passed in the said original applications and as such, with the consent of the parties, the same are taken up for analogous hearing.

Mr. Basu, learned advocate appearing for the petitioner submits that the petitioner retired from his service on 31st August, 2005. In the midst thereof, a disciplinary proceeding was initiated against him and in the same, a final order was passed on 4th July, 2008 imposing a penalty of 50% cut in monthly pension on a permanent basis with immediate effect. Assailing the same, the petitioner approached the learned Tribunal and by an order dated 10th October, 2012 the orders passed by the President were set aside and quashed with liberty to the respondents to proceed from the stage of making available a report of the Vigilance Commission and for obtaining the comments of the petitioner and to conclude the entire exercise same within one year. It was also directed that the advice of the UPSC shall be made available to the petitioner. Thereafter, on 3rd November, 2015 only some documents were served upon the petitioner. The respondents did not take appropriate steps towards conclusion of the proceeding within the time as directed by the learned Tribunal and as such the non-compliance of the order of the learned Tribunal renders the subsequent issuance of the notices dated 14th March, 2024 and 2nd April, 2024 to be unsustainable in law.

He submits that initially an *interim* order was passed on 10th June, 2024 directing the respondent no.3 to furnish reasons for not completing the disciplinary proceeding

initiated in the year 2006 and in the meanwhile, the enquiry was stayed till the next date of hearing. The matter thereafter appeared on 21st June, 2024 and without considering the explanation given by the respondent no.3 and without granting an opportunity to the petitioner to deal with such explanation, the learned Tribunal abruptly vacated the *interim* order. Such infirmity warrants interference of this Court.

Mr. Banerjee, learned senior Standing Counsel, assisted by Mr. Mukherjee, learned A.G.P. appearing for the State respondents submits that to avoid undue delay in conclusion of the proceeding, the *interim order* was rightly vacated and there is no infirmity in the order impugned.

Mr. Trivedi, learned advocate appearing for the Union of India submits that the proceedings need to be expeditiously concluded.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It is yet to be decided as to whether the delay towards conclusion of the proceeding is attributable to the respondents and as to whether the steps taken by the respondents beyond the time period set by the learned Tribunal in its earlier order dated 10th October, 2012, are sustainable. *Prima facie*, in the said conspectus, the learned Tribunal ought not to have vacated the *interim order* passed earlier.

In view thereof, further proceedings in the inquiry initiated against the petitioner shall remain stayed till the disposal of the original applications.

Answering our query, Mr. Basu submits that the next date of hearing has been fixed on 18th July, 2024. In view thereof, the petitioner is directed to file rejoinder to the reply filed by the respondents on 21st June, 2024 within a week from date, with copies to the learned advocates appearing for the respondents before the learned Tribunal.

Needless to observe, the learned Tribunal would decide the original applications as expeditiously as possible, without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, the writ petitions are disposed of.

As the writ petitions are being disposed of without calling for affidavits, the allegations levelled against the respondents in the present writ petitions shall be deemed to have been denied.

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.)