

WPST 133 of 2024
(State of West Bengal & Ors.
Vs. Dr. Haricharan Ray)

Mr. Anirban Ray
Mr. Piyush Agrawal
Ms. Shrivalli Kajaria
Mr. Debojyoti Das

..... For the petitioners

Mr. Arjun Ray Mukherjee
Ms. Sohini Mukherjee

.... For the respondent

The present writ petition has been preferred by the State and its functionaries challenging the judgment dated 16th September, 2022 passed by the learned Tribunal in the original application (in short, OA) being OA 534 of 2018. By the said order, the learned Tribunal quashed the charge sheet dated 4th June, 2018 issued to the original applicant/respondent herein by the respondent no. 2.

Mr. Ray, learned Government Pleader appearing for the petitioners submits that the learned Tribunal delivered the impugned judgment failing to appreciate that the West Bengal Services (Classification, Control and Appeal) Rules, 1971 do not impose any time limit within which a departmental proceeding against the delinquent officer during his service, needs to be completed.

He argues that the delay towards issuance of the charge sheet dated 4th June, 2018 is not totally attributable to the petitioners and the delay which occurred was neither *mala fide* nor intentional and it cannot be stated that the petitioners adopted dilatory tactics inasmuch as immediately upon receipt of the recommendation issued by the West Bengal Human Rights Commission (in short, the said Commission) dated 22nd July, 2002, the Department of Health and Family Welfare, Government of West Bengal initiated a disciplinary proceeding against the respondent in the year 2003 but subsequently the original departmental proceeding file could not be traced out and the delay occurred due to misplacement of the file. Such argument, as advanced, was glossed over by the learned Tribunal and no finding was returned on the same.

Drawing our attention to the report filed by the Commission, Mr. Ray submits that the respondent was the autopsy surgeon and in the post mortem examination he showed only one single bullet injury on the left thigh of the deceased. He also admitted before the investigating officer that there were in all three bullet injuries. He could not justify as to why he prepared such a vague and false post mortem report of the deceased, namely, Gopal Patra. In the said conspectus, the Commission arrived at a finding that the respondent deserved severe punishment for his gross misconduct and lack of

professional competency. In the disciplinary proceeding initiated by the charge sheet dated 4th June, 2018, the respondent contested and the inquiring authority arrived at a finding that the charges are proved, as would be explicit from the inquiry report dated 6th August, 2018. In the backdrop of the said facts, the learned Tribunal erred in law in quashing the charge sheet.

Mr. Ray Mukherjee, learned advocate appearing for the respondent, however, denies and disputes the contention of the petitioners and submits that the delay towards initiation of the disciplinary proceeding is totally attributable to the petitioners. They could not furnish appropriate explanation as to why though the Commission report was of the year 2002, the disciplinary proceeding was initiated in the year 2018, i.e., about 16 years from the date of recommendation of the Commission.

He argues that the petitioners illegally withheld the 16 years MCAS benefits of the respondent. For such inaction, the respondent had to approach the learned Tribunal and on the basis of the direction passed, the petitioner no.3 ultimately passed an order on 16th May, 2018 recommending the grant of the said benefits to the respondent without prejudice to the outcome of the disciplinary proceedings contemplated against him. With an intent to frustrate such recommendation and to deny the benefits, the petitioners issued the charge sheet

thereafter on 4th June, 2018. In the said conspectus, the learned Tribunal rightly quashed the charge sheet and there is no infirmity in the said judgment warranting interference of this Court.

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

Indisputably, Commission recommended initiation of disciplinary proceeding against the respondent in the year 2002. However, the disciplinary proceeding was initiated through issuance of a charge sheet about 16 years thereafter on 4th June, 2018. The petitioners sought to provide an explanation towards such belated issuance of the charge sheet contending that the file was misplaced. The file went missing way back in the year 2002. Even though such was within the knowledge of the petitioners, no steps were taken contemporaneously. In the said conspectus, the purported explanation towards the delay was rightly discounted by the learned Tribunal.

The protracted disciplinary proceeding against a government employee should be avoided not only in the interest of the government employee but also in public interest and also in the interest of inspiring confidence in the minds of the government employees. The learned Tribunal, in our opinion, rightly drew the curtains and put an end to the proceedings since the sufferings of the respondent due to the protracted disciplinary proceedings

would be more than the punishment. For the mistakes on the part of the petitioners, the respondent should not be made to suffer.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the judgment impugned, warranting interference of this Court.

Accordingly, the writ petition is dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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