

02
05.01.2024
Ct. No. 11
Jayanta

WPST 179 of 2023

(State of West Bengal & Ors. Vs. Paresh Chandra Bera.)

Mr. T.M. Siddiqui, Ld. AGP

Mr. T. Chakraborty

..... For the State/Appellants.

Mr. M.N. Roy

Mr. Gourav Halder

..... For the Respondent.

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

The present writ petition has been preferred by the State of West Bengal and its functionaries challenging an order dated 13th July, 2022 passed by the learned Tribunal in an original application being O. A. No. 875/2021 and an order dated 21st November, 2022 passed in a miscellaneous application being M. A. 125/2022 filled in connection with O.A. No. 875/2021.

Mr. Siddiqui, learned advocate appearing for the respondents before the learned Tribunal/petitioners herein submits that there was no deliberate delay on the part of the petitioners to conclude the proceedings in the light of the order dated 13th July, 2022. The delay which had occurred was due to the inaction on the part of the State Vigilance Commission to furnish its opinion sought for by the disciplinary authority. Immediately after receipt of recommendation from the State Vigilance Commission on 21st September, 2022, a

second show cause notice was issued on 29th September, 2022 to which the respondent herein submitted a reply on 11th October, 2022. Immediately thereafter the disciplinary authority sought for the views of the West Bengal Public Service Commission by a letter dated 3rd November, 2022, as annexed at page 96 of the writ petition. The miscellaneous application was filed on 21st October, 2022 seeking extension of time to conclude the disciplinary proceeding since in the midst thereof the puja vacation intervened. Being oblivious with the above sequence of facts, the learned Tribunal rejected the petitioner's prayer. The issues, as urged before the learned Tribunal, were glossed over and no findings were returned on the same and such infirmity warrants interference of this Court.

Mr. Roy, learned advocate appearing for the applicant/respondent herein denies and disputes the contention of the petitioners and submits that the respondent had already retired in the year 2020. The petitioners were initially not aggrieved by the order dated 13th July, 2022 by which the original application was disposed of. In compliance of such directions, steps were initiated by the petitioners to complete the proceeding but they failed to do so within the time as specified in the order dated 22nd July, 2022. The delay which had occurred is clearly attributable to the petitioners. It is only after expiry of the said period of three months, the petitioners approached the learned

Tribunal by filing a miscellaneous application. The same was decided by the order dated 21st November, 2022. The petitioners thereafter maintained a deceptive silence and filed the present application about a year thereafter on 24th November, 2023 challenging the orders dated 13th July, 2022 and 21st November, 2022.

There is no explanation as regards the delay in preferring the present writ petition and from the records it is explicit that the petitioners have been negligent in concluding the disciplinary proceeding being aware of the fact that by the order dated 13th July, 2022 the learned Tribunal had categorically directed that in the event the proceeding is not completed within three months, the disciplinary proceeding would stand vitiated.

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

Indisputably, by the first order dated 13th July, 2022, the learned Tribunal directed the disciplinary authority to complete the proceeding within three months from the date of receipt of the said order with a specific rider that otherwise the disciplinary proceeding would be vitiated. Admittedly, the petitioners did not challenge the said order dated 13th July, 2022 immediately. Instead, they proceeded on the basis of the said order to conclude the proceedings but failed to do so within the time of three months and after expiry

of the said period, the miscellaneous application was filed on 21st October, 2022.

It is only after filing the miscellaneous application, the views of the West Bengal Public Service Commission were sought for on 3rd November, 2022. About one year thereafter now the petitioners have filed a composite writ petition challenging the initial order dated 13th July, 2022 and the subsequent order dated 21st November, 2022. However, we do not find any explanation as regards the delay in preferring the present writ petition. The petitioners have miserably failed to explain the delay which had occurred and in view thereof, the learned Tribunal rightly did not exercise discretion in their favour.

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 orders impugned.

In view thereof, the writ petition is dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(V.M. Velumani, J.)

(Tapabrata Chakraborty, J.)