

15.07.2024
Item No.08
Court No.11
Avijit Mitra

WP.CT 248 of 2023

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

And

Union of India & ors.

-Versus-

Santosh Kumar Das

Mr. Sukumar Bhattacharyya,
Ms. Rini Bhattacharyya,
Ms. Oindrila Chatterjee,
Ms. Puja Sonkar

...for the Union of India

Mr. Chiradip Sinha,
Mr. S.S. Mandal

...for the respondent

The present writ petition has been preferred by the Union of India and its functionaries challenging an order dated 30th March, 2023 passed by the learned Tribunal in the original application (in short, OA) being OA 2099 of 2021.

Records reveal that a chargesheet together with a statement of imputation of misconduct was issued to the petitioner by a memo dated 31st January, 2020 to which the petitioner replied on 7th February, 2020. Thereafter, the disciplinary authority passed an order on 26th February, 2020 imposing a punishment '*withholding of increment for a period of two years as and when due with non-cumulative effect*'. Aggrieved thereby, the original applicant/respondent herein preferred a statutory appeal which was disposed of by an order dated 1st June, 2020 reducing the punishment from two years to one year with non-cumulative effect. The respondent thereafter

preferred a revision which was turned down by an order dated 18th January, 2021. Aggrieved thereby, the respondent preferred the OA which was disposed of by the order impugned in the present writ petition.

Mr. Bhattacharyya, learned advocate appearing for the petitioner submits that a perusal of the reply to the chargesheet and the revision petition would clearly reveal that the respondent had admitted the charge levelled against him. In view thereof, the learned Tribunal ought not to have interfered with the punishment order as affirmed by the revisional authority.

He further argues that the scope of interference of the learned Tribunal in a disciplinary proceeding matter is very limited and it is not a case that the petitioners have not followed the procedure laid down in the rules. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same. Reliance has been placed upon a judgment delivered in the case of *Union of India & ors. Vs. Managobinda Samantaray*, reported in 2022 LiveLaw (SC) 244.

Mr. Sinha, learned advocate appearing for the respondent denies and disputes the contention of Mr. Bhattacharyya and submits that there had been blatant procedural lapses on the part of the petitioners towards imposition of the punishment. Though factual issues were involved, no copy of the inspection report was supplied to the respondent and the author of the said report was also not allowed to be cross-examined. In view thereof, the

learned Tribunal rightly applied the ratio of the judgment delivered in the case of *O.K. Bhardwaj Vs. Union of India & ors.* reported in (2001) 9 SCC 180.

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

Indisputably, no opportunity of hearing was granted to the respondent though he had denied the charge. He was not supplied the copy of the inspection report dated 10th January, 2020. He was also not granted any opportunity to cross-examine the author of the said inspection report. There is no dispute as regards the proposition of law laid down in *Samantaray* (supra). However, the same is distinguishable on facts.

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 order impugned.

In view thereof, no interference is called for in the present writ petition and the same is dismissed.

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.)