

D/L28
02.01.2025
Rohit
ct.no.4

WPST 194 of 2024

**Soumen Kumar Sadhukhan & Ors.
Versus
State of West Bengal & Ors.**

Mr. D.N. Ray
Mr. Biswarup Nandy
...for the petitioners

Mr. Biswabrata Basu Mallick, Ld. AGP
Ms. Parna Roy Chowdhury
...for the State

1. Affidavit-in-reply is taken on record.
2. Heard learned counsel for the petitioner and the State.
3. The petitioner has approached this Court being aggrieved by an order passed in MA 48 of 2024 extending the time for concluding the disciplinary proceedings initiated against the petitioner.
4. The petitioner claims parity with certain other persons who were also proceeded against by the department by virtue of similar allegations leveled against them in a criminal case arising out of NDPS Case No. 136 of 2017.

5. It is submitted that in respect of the other four persons namely Tapas Bala, Maharam Seikh, Krishna Gore and Naresh Sarkar the Tribunal has quashed the proceedings in view of the fact that in the criminal trial arising out of NDPS Case No. 136 of 2017 the applicants who were accused therein had been acquitted.
6. It is thus submitted that the Tribunal should have accorded parity to the present petitioner since the charges against the petitioner were identical to that leveled against the other four co-accused persons in the common criminal trial.
7. The learned State Counsel has submitted that the Tribunal had accordingly extended the time for concluding the proceedings against the petitioner.
8. She, is however, not in a position to dispute or deny the fact that the petitioner and the other four persons with whom he is claiming parity were all accused in the same criminal trial arising out of NDPS Case No. 136 of 2017.

9. It is also not in dispute that they are all facing the same charge that while being members of the raiding team they have unlawfully possessed the seized material (contraband). It is also not in dispute that the petitioner has been acquitted in the said trial as have the other four persons with whom he is claiming parity.
10. The facts being in an admitted compass. We do not find any basis for the Tribunal to subject the petitioner to any different treatment that was meted out to the other co-accused persons who were applicants in OA No. 255 of 2023, OA No. 256 of 2023, OA No. 504 of 2023 and OA No. 506 of 2023. There being no distinguishing features between the petitioners case and the other four co-accused persons, we are of the view that the Tribunal ought to have given the same relief to the petitioner as has been given to the other four co-accused persons against whom the department was proceeding in a departmental enquiry. Since the proceeding in respect of the other four persons have been quashed by the

Tribunal, the Tribunal ought to have quashed the proceedings pending against the petitioner also.

11. According the similar treatment to the petitioner as he is similarly situated to the other four co-accused persons we extend the same relief to the petitioner as has been granted to the other four co-accused persons and quash the entire proceedings arising out of order dated 23.09.2022 issued by the Excise Commissioner, West Bengal contained in Memo No. C- 681E.
12. The writ petition stands allowed in the above terms.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)