

**02.01.2025**  
Court No.23  
DL – 3  
M.H

**In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

**WPA 27942 of 2024**

**Swapan Pramanik  
versus  
The State of West Bengal & Ors.**

Mr. Sakir Hossain,  
Mr. Md. Samsad Sk.,  
Ms. Behestun Nesa,  
Ms. Sabiha Mehebab Alam,  
.... for the Petitioner

Mr. Amal Kr. Sen,  
Mr. Lalmohan Basu  
....for the State

Affidavit of service is taken on record in Court today.

The petitioner says that he was appointed as a Civic Police Volunteer on 19<sup>th</sup> July, 2014 and was attached to Habibpur Police Station, District-Malda. The petitioner worked with the said police station till 30<sup>th</sup> January, 2016. On 30<sup>th</sup> January, 2016, a complaint was lodged by the petitioner's wife, namely, Priti Pramanik at Habibpur police station pursuant to which a First Information Report (in short, "FIR") was recorded being FIR no.44 of 2016 dated 30<sup>th</sup> January, 2016 at the said Habibpur police station. This culminated to GR Case 348 of 2016 before the Learned Judicial Magistrate, First Class, 1<sup>st</sup> Court, Malda. The FIR was recorded under the Section 498A/34 of Indian

Penal Code, 1860 (in short, “IPC”). The petitioner was demobilized after such FIR and was not permitted to resume duty though he visited the concerned police station for the same on repeated occasion. The petitioner was acquitted from the criminal case initiated pursuant to the complaint made by the petitioner’s wife by the Court of the Learned Judicial Magistrate, First Class, First Court, Malda by a judgment and order dated 27<sup>th</sup> February, 2024. The petitioner says that on being acquitted, the petitioner had applied for being reinstated but his prayer has not been considered by the concerned Superintendent of Police, District-Malda being the respondent no.3. The petitioner, therefor, seeks a mandatory direction upon the respondent nos.3 and 4 to allow the petitioner to resume his duty as a Civic Police Volunteer at Habibpur police station, Malda.

On behalf of the State, it is submitted that the services of the petitioner as a Civic Police Volunteer is not governed by any service rules and only governed by Government Order and as such no disciplinary proceedings is required to be conducted against the petitioner, on *prima facie* finding the petitioner being involved in a criminal case. The petitioner, therefor, was demobilized. It is true that the petitioner has been acquitted but after eight long years and as such it is not possible to re-engage the petitioner at Habibpur police station on having been acquitted.

After hearing the parties and considering the materials on record, I find that the engagement of the petitioner as a Civic Police Volunteer is in terms of the Government Order and as such the services of the petitioner is not governed by any service rules.

In this background when the employer found that the petitioner has been implicated in a criminal case no steps like initiation of a disciplinary proceedings which could have otherwise been done, had the petitioner been governed by any service rules. The employer, therefore, on finding the petitioner being implicated in a criminal case, lost confidence on the petitioner and had demobilized the petitioner, which according to me, was a correct step. Although, there may not be an employer-employee relationship in case of Civic Police Volunteer since the same is an engagement only for assisting the police force. There can, however, be no doubt that the confidence of the employer on finding that the petitioner being implicated in a criminal case, was shaken. That apart and in any event the criminal case was initiated against the petitioner in the same police station where the petitioner was engaged.

It is well-settled that a criminal case initiated against an employee and the disciplinary proceedings initiated by the employer against the employee are on different footing though the genesis of the incident leading to the same may be common. Even if, the

employee is acquitted and/or exonerated from the criminal case, there is no mandate on the employer to re-engage the employee.

Relying on the principal analogous to what is followed in case of employee governed by a service rule. I do not find any substance in the petitioner's submission for a mandatory direction to allow him to resume his duties as a Civic Police Volunteer at Habibpur police station.

The petitioner says that the representation made by the petitioner to allow him to resume his duties should be considered by the respondent no.3. The petitioner relies upon few co-ordinate bench judgments to contend that the representation should be directed to be considered.

After having considered the orders dated 19<sup>th</sup> January, 2017, 25<sup>th</sup> October, 2017, 18<sup>th</sup> February, 2019, 3<sup>rd</sup> April, 2019, 9<sup>th</sup> April, 2019, 9<sup>th</sup> April, 2019 and 24<sup>th</sup> June, 2019 respectively passed in WP 21555 (W) of 2016, WP 22780 (W) of 2017, WP 3578 (W) of 2019, WP 7032 (W) of 2019, WP 3425 (W) of 2018, WP 4090 (W) of 2018 and WP 10837 (W) of 2019, I do not also find any merit in the petitioner's submission.

Irrespective of the facts, it appears from the aforesaid orders that the representation made by the Civic Police Volunteer on having been demobilized due to involvement in criminal cases had been directed to be

considered without going into the merits of the case. The reason for not directing the petitioner's representation to be considered, can be summarized as follows:-

i) The petitioner was implicated in a criminal case in the same police station where the petitioner was engaged. The role of a Civic Police Volunteer is to assist the police authority. The public at large, without going into the authority or status of a Civic Police Volunteer, considers such a volunteer to be part of the police force. Once the confidence of the public at large within the jurisdiction of Habibpur police station, having been shaken with the petitioner's involvement in a criminal case which becomes known very easily in moffusil or village area, does not go away with the petitioner being acquitted or exonerated. The petitioner is also not required to go to each of the persons within the jurisdiction of Habibpur police station to inform them that he has been acquitted. The public at large also will not know whether the petitioner has been acquitted or exonerated. The public at large carries the impression that he was accused in a criminal case. The confidence of the public at large residing within the jurisdiction of Habirpur police station on finding the petitioner to be re-engaged will be in further jeopardy.

ii) The petitioner is not governed by any service rules and as such there is no check and balance to keep

the petitioner to act in a befitting manner while assisting the police force.

iii) A long period of time has elapsed between the petitioner being demobilized on 30<sup>th</sup> January, 2016 and his date of acquittal on 27<sup>th</sup> February, 2024, the police authorities cannot, therefor, be mandatorily directed to allow the petitioner to resume his duty. Allowing the representation to be considered may make a stale claim alive which should not be lightly directed.

iv) The petitioner ought to have been cautious while assisting the police force from being involved in a criminal case at the instance of his wife.

For the reasons as aforesaid, the writ petition is dismissed, however, without any order as to cost.

**(Arindam Mukherjee, J.)**