
(2018) 05 CAL CK 0174
In the Calcutta High Court
Case No : Writ Petition3633(W) of 2018

Bhabatosh Barai

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 11-05-2018

Acts Referred:

Citation : (2018) 05 CAL CK 0174

Hon'ble Judges : SAMAPTI CHATTERJEE, J

Bench : Single Bench

Advocate : Debjit Kundu, Rabindra Nath Pal, K.R. Chatterjee, Chaitali Bhattacharjee, Tuli Sinha

Final Decision : Disposed Of

Judgement

The petitioner has filed the present writ petition for direction upon the respondent authorities specifically the school authorities to allow the petitioner to resume his service after quashing the suspension order dated 25.01.2017 issued by the Chairman, District Primary School Council, Jalpaiguri. Learned

Advocate for the petitioner submits that due to some family dispute, a criminal case was initiated being Maynaguri P.S. Case No. 24/17 dated

16.01.2017 u/s 306/34 IPC and the petitioner was taken to police custody.

However, petitioner was enlarged on bail on 10.02.2017. Immediately thereafter, the petitioner made representation before the school authority to

allow him to join service. Unfortunately, by the impugned order dated 25.01.2017 issued by the Chairman, D.P.S.C, Jalpaiguri , the petitioner was

under suspension with effect from 17.01.2017. Learned advocate for the petitioner further submits that till date the petitioner was under suspension

but no disciplinary proceedings has yet been initiated by the school authority.

Learned advocate for the petitioner further submits that the criminal case is no way connected with the petitioner's service.

Therefore, the petitioner should be allowed to resume his service after quashing the impugned suspension order. In support of his contention, learned

advocate for the petitioner relied on several decisions passed by the Hon'ble Court reported in (2004) 1 CalHCN 32(Basudev Malick -Vs-State

of West Bengal & Ors) and reported in (2005) 4 Cal HCN 60 (Md. Abdul Mannan vs- State of West Bengal & Ors) and also reported in (2006)

1 Cal HCN 34(Chhabi Chakraborty vs- State of West Bengal & Ors) .

Learned advocate appearing for the council submits that since the petitioner was under custody, therefore, the petitioner was placed under suspension

from the date of his custody i.e. from 17.01.2017. He further submits that the petitioner is acquitted from such criminal case and the petitioner should

be under suspension. Considering the submissions advanced by the learned Advocate appearing for the parties and after perusing the records, I find

that the criminal case was initiated against the petitioner not in related to school matter or not in related to defalcation of fund.

It is evident from the record that the criminal case was initiated on the basis of the family dispute. It is also revealed from the record that the petitioner

was enlarged on bail on 10.02.2017. But till date the petitioner has been placed under suspension by the council. I find that till date no disciplinary

proceedings has been initiated against the petitioner by the school authority.

That being the scenario, considering the above discussions and considering the decisions (Supra), I am of the considered view that the impugned order

of suspension cannot be sustained in the eye of law as well as the facts and circumstances of the case. Accordingly, the impugned order dated

25.01.2017 issued by the Chairman, District Primary School council, Jalpaiguri is hereby quashed and set aside. I direct the authorities to allow the

petitioner to resume his service without any further delay but positively by 18.05.2018.

Needless to mention, if in the criminal case, the petitioner is convicted then the school authority is at liberty to take appropriate proceedings against the

petitioner. With these directions, the writ petition is disposed of. There will be no order as to costs. Urgent Photostat Certified copy of this order, if

applied for, be given to the parties on compliance of usual formalities.