
(1984) 06 CAL CK 0016
In the Calcutta High Court
Case No : C.R. No. 10089 (W) of 1979

Sukumar Ghosh

APPELLANT

Vs

Bongaon Dinabandhu Mahavidyalaya and Others

RESPONDENT

Date of Decision : 19-06-1984

Acts Referred:

Citation : (1984) 06 CAL CK 0016

Hon'ble Judges : Amitabha Dutta, J

Bench : Single Bench

Advocate : T.P. Chatterjee and J. Bhattacharjee, for the Appellant; J. Islam for the Respondents (private), P.K. Basu for the State, for the Respondent

Judgement

Amitabha Dutta, J.—In this Writ petition, the petitioner who is an employee of Dinabandhu Mahavidyalaya, 24 Parganas, has challenged the order of the Administration of the said institution passed on 6.8.1979 (Annexure C to the Writ Petition) on the ground that it has violated the mandatory provisions contained in Statute 12C of the Statutes relating to the terms of employment and conditions of service of non-teaching employees of College affiliated to the University other than Government Colleges and Government Sponsored Colleges made u/s 58(2) of the Calcutta University Act, 1966 which are known as the Calcutta University First Statutes, 1966.

2. Sated briefly, the petitioner was appointed as a temporary clerk in the said College on 12.1.1959 and was made Senior Clerk with effect from 1.11.1968. He was made permanent in the post of Cashier at a Salary of Rs.120-280/- subject to a Resolution of the Governing Body dated 24.9.1972, the confirmation of which was stayed by the Civil Court in Title Suit No. 275 of 1972 till the said suit was withdrawn on 8.7.1977. the petitioner was served with an order dated 12.6.1979 by the Administrator of the College containing some charges against him and was asked to submit his explanation by 30.6.1979. The petitioner submitted explanation which was not satisfactory according to the Administrator and thereafter the impugned order dated 6.9.1979, was passed by the

Administrator incorporating certain additional charges against the petitioner and proposing to impose certain penalties specified therein and he was required to submit a written statement against the charges by 22.8.1979. The petitioner moved this Court in Writ Jurisdiction by filing Writ petition on 3.9.1979 and the learned Judge Sabyasachi Mukherjee, J. (as he then was) passed an interim order in the following terms, that: -

The petitioner will show cause to the letter dated 6.8.1979 and the respondents will be entitled to consider the cause in such manner as they think fit and proper but pass no final order".

3. Upon hearing the learned Advocates for the petitioner and the Respondents including the present members of the Governing Body of the College and the Principal and considering the facts and circumstances of the case as well as the position of law, I find that although the Governing Body of the College is not a Statutory Body, it is invested with certain duties under Statute Nos. 12A to 13C of the aforesaid Statutes relating to the employment and conditions of service of the petitioner which are statutory duties and failure to comply with the said statutory provisions or to perform the statutory duties in taking disciplinary action against the petitioner will attract the Writ Jurisdiction of this Court. I have come to this conclusion after considering the decisions reported in *Shri Vidya Ram Misra Vs. Managing Committee, Shri Jai Narain College*, , *Prabhakar Ramakrishna Jodh Vs. A.L. Pande and Another*, , *Executive Committee of Vaish Degree College, Shamli and Others Vs. Lakshmi Narain and Others*, , *Smt. J. Tiwari Vs. Smt. Jwala Devi Vidya Mandir and Others*, and 1982 (2) Cal LJ 46. In my view, the Administrator has acted illegally by incorporating and specifying the penalties proposed to be imposed on the petitioner in respect of the charges leveled against him before his guilt was proved in the impugned order dated 6.8.1979 and therefore, the said order should be quashed. The Governing Body of the College will however be at liberty to serve a fresh Charge Sheet on the petitioner and proceed against him in accordance with Law. It may be mentioned that no decision has been arrived at in this proceeding regarding the merits of the charges mentioned in the order dated 6.8.1979 and the Governing Body of the College will be at liberty to level the same charges against the petitioner in the subsequent proceeding along with other charges, if any. There will be no order as to costs.

5. The learned Advocates of the parties are permitted to take a copy of the ordering portion of this judgment.

Let certified copy of the judgment, if applied for, be granted expeditiously.