

**(2025) 03 CAL CK 0999**

**In the Calcutta High Court, Appellate Side**

**Case No : F.M.A. 208 Of 2025 With I.A. No. CAN 1 Of 2025**

Tapan Bhattacharjee

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

**Date of Decision : 11-03-2025**

**Acts Referred:**

**Citation : (2025) 03 CAL CK 0999**

**Hon'ble Judges : T.S. Sivagnanam, CJ;Chaitali Chatterjee (Das), J**

**Bench : Division Bench**

**Advocate : Partha Sarathi Bhattacharyya, Debdutta Raha, Swapan Kr. Datta, Munmun Tewary, Sanatan Panja, Siddhartha Banerjee**

**Final Decision : Dismissed**

## Judgement

T.S. Sivagnanam, CJ

1. This intra-Court appeal by the writ petitioner is directed against the order dated 12th November, 2024 in W.P.A. 8454 of 2008. The appellant had filed the writ petition challenging the disciplinary proceeding initiated against the appellant in Case No.1 of April 2007 (Group – C) including the charge-sheet dated 5th April, 2007, enquiry report dated 18th August, 2007 and final order dated 8th October, 2007 and for a further direction to transfer the appellant to his own station at Midnapore after granting of medical leave and paying salaries up to date. The order impugned in the writ petition i.e. the order dated 16th July, 2007 is an order by which the appellant was directed not to be transferred from Jhargram Station to his own station (Midnapore Sadar) for a period of five years.

2. As rightly noted by the learned Single Bench, the period of five years is already over and nothing further remains to be adjudicated in the writ petition. However, during the pendency of this matter, in 2014 a charge-sheet dated 4th June, 2014 was issued to the petitioner containing two articles of charge. The first article of charge being unauthorised absence and the second article of charge also was to the effect that the appellant did not join duty with effect from

14th September, 2007 till the issuance of the charge memo.

3. The appellant sought to assail the correctness of the said charge memo in the writ petition, which was not entertained by the learned Single Bench as there was no prayer to the said effect. In our view, the learned Single Bench was perfectly justified in observing that the issue regarding unauthorised absence was not the subject-matter in the writ petition.

4. Learned advocate appearing for the appellant submitted that though charge-sheet was issued in the year 2014 and the appellant had submitted his reply, no further proceeding was initiated pursuant to the said charge-sheet and, therefore, it is deemed that the proceeding had been dropped or closed.

5. It is further submitted that in the understanding of the appellant, the disciplinary authority appears to have been satisfied with the explanation offered by the appellant and, therefore, though fit not to proceed further in the matter.

6. It is not in dispute that the charge-sheet was issued in the year 2014 and prima facie, we are of the view that it will be unreasonable to resurrect a matter after a period of 10 years. However, we do not wish to make any conclusive observation in this regard as the 2014 charge-sheet was not impugned in the writ petition.

7. Learned advocate appearing for the appellant had filed Supplementary Affidavit enclosing the proceeding of the learned District Judge, Paschim Medinipur dated 18th April, 2024, which is a gradation list and submitted that the name of the appellant features in Serial No.1.

8. Learned advocate appearing for the High Court Administration has rightly pointed out that in the gradation list, there is a remark column, which mentions about the period of unauthorised absence. Thus, as on date, the period of unauthorised absence having not been regularised the question of granting any relief in favour of the appellant in this appeal would not arise; more so in the writ petition, the learned Single Bench being conscious of this fact, did not foreclose the remedies to the appellant and in paragraph 9 of the impugned order, the learned Writ Court has observed that it will be open to the writ petitioner to take appropriate steps in accordance with law. Therefore, the appellant cannot be stated to be aggrieved by the impugned order and consequently, we hold that there is no reason to interfere with the order passed by the learned Single Bench.

9. Accordingly, the appeal fails and the same is dismissed alongwith the connected application (I.A. No. CAN 1 of 2025).

10. The liberty, which has been granted to the writ petitioner in paragraph 9 of the impugned order is slightly modified by observing that it will be open to the appellant to submit a representation to the disciplinary authority/ District Judge for appropriate orders regarding the period of unauthorised absence and if done so, the same shall be considered in accordance with law.

11. No costs.

12. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.