

12.02.2025
Court No.23
DL/Item No.-8
[Milan, A.R. (Ct.)]

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 31047 of 2024

Tanusree Roy
versus
Director of ICDS, Directorate of ICDS Scheme & Anr.

Ms. Tanusree Roy
....for the Petitioner (in person)

Mr. Santanu Kr. Mitra,
Mr. Amartya Pal

....for the Respondents

Affidavit of service filed by the petitioner in Court today is taken on record.

The petitioner is appearing in person. Since the petitioner is a lady, on a query from this Court as to whether the petitioner is desirous in taking assistance from the legal aid, the petitioner says that she is not interested to avail legal aid.

The petitioner was appointed as a Typist-cum-Storekeeper in the year 2001 under the Directorate of Social Welfare, Government of West Bengal. The petitioner also says that the Director of Integrated Child Development Scheme (in short, "ICDS") all on a sudden on 13th September, 2024 issued a charge sheet on certain baseless grounds. It is also the case of the petitioner that the articles of charge was issued in connection with certain allegations which allegedly took

place 8 to 10 years prior to the issuance of the charge sheet. No show-cause notice or any caution letter was issued to the petitioner within a reasonable period from the date of alleged incidents on the basis whereof the charge sheet has been issued or prior to issuance of the charge sheet.

In view of such chain of events, the petitioner contends that the alleged charges are baseless and the charge sheet has been issued with the intent to victimize the petitioner. The petitioner also says that the charge sheet was not issued and served on the petitioner in the manner as required to be issued and served in law.

The petitioner, therefor, had gone to lodge an First Information Report (in short, "FIR") with the jurisdictional police station. However, such FIR was not registered. The alleged refusal to register FIR is, however, not the subject matter of this writ petition. The petitioner says that on coming to know that the petitioner had gone to register an FIR, in order to further victimize the petitioner and cause further harassment to her, the petitioner has been transferred to Darjeeling from Domjur, Howrah. The petitioner says that knowing fully-well that the members of the petitioner's family are ill and they cannot be moved from their residence at Kolkata to Darjeeling, the transfer order was purportedly issued.

Transfer order, according to the petitioner was issued as part of vengeance, since the petitioner protested against the action of her employer. The petitioner also says that the petitioner had informed these facts to the Director of ICDS (respondent no.2) but the same is of no consequence.

In spite of such information, the petitioner has been issued a release order in an attempt to cause her further prejudice and detriment to the petitioner. The petitioner, as a consequence of such action, is not a position to join at her transferred place. The salary of the petitioner has been stopped. Ventilating all these grievances, the petitioner has filed this writ petition, *inter alia*, to restore the salary and by cancelling her transfer order to Darjeeling to any place in the neighbourhood so that the petitioner can stay at her residence and take care of her ailing family members while discharging her normal duties.

On behalf of the State respondents, it is submitted that the petitioner is holding a civil post under the State Government as a consequence whereof, the petitioner is a Government employee and is, therefor, required to file this writ petition before the West Bengal Administrative Tribunal (in short, "WBAT"), in view of provision of Section 15 read with Section 28 of the Administrative Tribunals Act, 1985 (hereinafter referred to as, "1985 Act"). It is also submitted that the petitioner's

appointment was in a transferable job. The petitioner has been at Domjur, Howrah for last 6 (six) years and the transfer is a routine one.

On a query from the Court, it is submitted by the learned advocate representing the State that there is only one member available in the WBAT and there is no Judicial Member or any Chairman. It is, therefore, apparent that the WBAT is virtually in-operational. The petitioner, if is relegated to WBAT, will suffer immense prejudice as it is not known when her matter will be taken or heard by the WBAT.

In the aforesaid facts and circumstances following the ratio laid down by the Hon'ble Supreme Court in **2020 (6) SCC 1 [Rojer Mathew vs. State of South Indian Bank Limited]**, I am not inclined to send the petitioner to WBAT on the ground that she is holding a civil post under the State Govt.

The prayer for petitioner to restore her salary or to interfere with the transfer order or declare the charge sheet to be a nullity.

The matter is required to be heard by affording the respondents an opportunity to disclose their stands on affidavit particularly in view of ratio laid down by the Hon'ble Supreme Court in the judgment report in **AIR 2012 SC 2250 [Secretary, Ministry of Defence & Ors. vs. Prabhash Chandra Mirdha]**, wherein it has been held that issuance of the charge sheet does not

affect the right of an employee and that in **2009 (15) SCC 178 [Rajendra Singh & Ors. vs. State of Uttar Pradesh & Ors.]** wherein it has been clarified as to the limited scope in interfering with a transfer order.

Let affidavit-in-opposition be filed by 7th March, 2025. Reply, if any, be filed by 24th March, 2025.

Parties will be at liberty to mention the matter for inclusion in the list under the heading “hearing” on completion of affidavits or on expiry of the time provided for filing of affidavits, if no such affidavits are filed.

(Arindam Mukherjee, J.)