

ORDER SHEET

WPO/111/2018
IA No. GA/3/2020 (Old No. GA/525/2020)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SUVRA KUMAR DEY
-VS-
THE STATE OF WEST BENGAL & ORS

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 8th December, 2021.

Appearance:

Mr. Suvra Kumar Dey (in person)
... petitioner

Mr. Soumya Majumder, Adv.
Mr. Niladri Bhattacharjee, Adv.
Ms. Deblina Chattaraj, Adv.
... for WBTC

Ms. Chaitali Bhattacharya, Adv.
Mr. Subhendu Roy Choudhury, Adv.
... for the State

The Court : The hearing of the matter is commenced.

The petitioner says that in terms of the direction given by this Court in its order dated 18th April, 2017 passed in WP 158 of 2017, the Managing Director of Calcutta Tramways Company (1978) Limited now known as West Bengal Transport Corporation Limited had conducted a preliminary enquiry. The said Managing Director in course of the enquiry has found the allegations made by the petitioner in the said writ petition to be incorrect and as such had recommended for initiation of disciplinary proceedings. The Managing Director has issued the charge sheet but the

disciplinary authority is different. The petitioner says that the person, who acted as a fact finding authority in terms of the order dated 18th April, 2017, has himself issued the charge sheet *prima facie* holding that the petitioner has committed the said offences as enumerated in the memorandum of charge. Although the disciplinary authority and the enquiry authority are different but the disciplinary authority is subordinate to the Managing Director. In course of the disciplinary proceedings, the preliminary enquiry conducted by the Managing Director will fall for consideration either from the side of the employer or the employee. In either case, the Managing Director has to depose and vouch as to the authenticity of the findings in his preliminary enquiry report. The disciplinary authority who is admittedly a subordinate officer to the Managing Director will never doubt the statement made or given by the Managing Director. There is as such patent illegality. The provisions of Service Rules applicable to the petitioner has also not been followed and there is gross violation of principle of natural justice. The respondents have, however, disputed the submissions made by the petitioner.

Due to paucity of time, the hearing of the matter could not be completed.

The matter is adjourned and is directed to appear in the list on 20th December, 2021 for further hearing.

(ARINDAM MUKHERJEE, J.)