

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Original Side

Present :-Hon'ble Justice Amrita Sinha

WPO 1618 of 2022

AFTAB AHMED

-VS-

THE STATE OF WEST BENGAL & ORS.

For the writ petitioner	:-	Mr. Victor Chatterjee, Adv. Ms. Sneha Singh, Adv.
For the State respondents	:-	Mr. Arindam Ghosh, Adv.
For the Transport Corporation	:-	Ms. Deblina Chattaraj, Adv. [VC].
Heard on	:-	30.03.2026
Judgment on	:-	30.03.2026

Amrita Sinha, J.:-

1. The petitioner is serving as a driver of the Calcutta Tramways Corporation (1978) Ltd. renamed as West Bengal Transport Corporation Ltd. He is aggrieved by the order dated 7th August, 2015 passed by the Chief Operating Manager in the appeal preferred by him against the order of punishment imposed by permitting him to re-engage without continuity in service.
2. It has been submitted that the punishment that has been imposed is not enumerated in the list of punishments mentioned in the Standing

Orders. According to the petitioner, the order of punishment ought to have been non-stigmatic.

3. It has also been submitted that due to discontinuity in service he is losing valuable pay. His peer drivers are receiving more pay than the petitioner.
4. Prayer has been made to permit continuity of service of the petitioner as his appeal has been allowed by the appellate authority.
5. The prayer of the petitioner is opposed by the respondents.
6. The Joint Managing Director of the West Bengal Transport Corporation Limited has filed an affidavit disclosing that the petitioner is a habitual offender and had absented from duties from time to time. Due to unauthorized absence for more than ninety continuous days, he was issued a memorandum on 7th November, 2012. On the appeal preferred by him, purely on humanitarian grounds, he was re-engaged in service on 17th December, 2012 with continuity of service.
7. The petitioner again absented from work for more than ninety continuous days in the year 2015 for which he was made to retire on medical ground. The appeal preferred by him was accepted and he was permitted to be re-engaged, however, without continuity in service. The petitioner's pay has been fixed as a new entrant.
8. The peer drivers referred to by the petitioner do not stand on the same footing as they were never found guilty of any misconduct and have never faced any punishment like that of the petitioner.
9. Prayer has been made to dismiss the writ petition.

10. Upon hearing the submissions made on behalf of both the parties and on perusal of the materials placed before this Court, it appears that the petitioner was initially discharged from service in December, 2012 on account of continuous unauthorized long absence. On an appeal against the order of discharge, on humanitarian grounds, he was permitted to be re-engaged with continuity in service.
11. Despite such soft stand taken by the authority, the petitioner again absented himself from service without notice for more than continuous period of ninety days. A proceeding was once again initiated against him in the year 2015 and he was made to retire on medical ground. The appeal preferred by the petitioner was again accepted by the authority and the order of discharge was withdrawn and he was permitted to be re-engaged but, this time, without continuity in service.
12. The petitioner challenges the same and submits that as the petitioner has been permitted to be re-engaged, the engagement should not be stigmatic. As discharge on medical ground is not enumerated in the Standing Orders, the authority could not have discharged the petitioner on such ground.
13. On a query from the Court with regard to the explanation of the delay in approaching the judicial forum in the year 2022 after accepting the re-engagement order in August, 2015 without any objection, there is no plausible answer to the same. It has merely been submitted that the petitioner is a driver and was not aware of his rights.

14. The respondent/employer has opined that the petitioner is a habitual offender and has absented himself from duties unauthorizedly. The authority, on sympathetic and humanitarian ground, revoked the order of his discharge in the year 2012 unconditionally. The petitioner failed to reform his conduct. He again absented himself from work in the year 2015 unauthorizedly for which he was discharged on medical ground. The authority once again showed mercy upon the petitioner and re-engaged him with a rider that he would not be permitted continuity in service. The period of absence was considered as break in service.
15. The petitioner appears to have accepted the condition imposed upon him. He never objected and/or opposed the condition for re-engagement. All on a sudden in the year 2022 he challenged the same, but did not provide any explanation as regards the delay in approaching the writ Court.
16. Article 226 of the Constitution is an extraordinary high prerogative jurisdiction which ought not to be permitted to be invoked by persons who sleep over their rights. The petitioner not only slept over his rights, but practically accepted the conditional engagement because he realised the mistake that he committed while he was on duty.
17. The Court ought to not come to the aid of such an employee whose conduct causes problem and hindrance in the day to day functioning of the employer. It could have been that the authority would not have re-engaged the petitioner had he not accepted the condition attached

thereto. The fact that the petitioner accepted the re-engagement and re-joined service without a murmur implies that he had no problem with such condition. The delay in approaching Court is also testimony of the fact that he waived his right to object after nearly seven years of re-engagement.

18. The petitioner realized that if he raised objection, then he may not get back his job. It was advantageous for him to accept re-engagement with a condition, than to lose the job. The employer also may not have re-engaged him had he not accepted the condition for his re-engagement. It was a win-win situation for the petitioner. After so many years of re-engagement, he cannot be permitted to turn around and challenge the condition for such re-engagement.
19. The Court is not inclined to exercise jurisdiction in this matter. The writ petition, accordingly, fails and is hereby dismissed.
20. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)