
Shri Ashim Kumar Paul

The Hon'ble Lieutenant Governor and Others

Mr. Shatadru Chakraborty, Sr. Adv.
Mr. Dibesh Dwivedi ... for the respondents

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner was to retire as an Executive Engineer at the Port Blair Municipal Council. In 2014, a tender had been floated for certain work. In 2015, the process was completed. Work in this regard was completed in 2021. Before handing over the matter to the Revenue Department, the petitioner, as an Executive Engineer, had dealt with the matter. The petitioner handed over the matter to the Revenue Department of the Port Blair Municipal Council on 13th July, 2021. Subsequently, the Revenue Department floated further tenders and allocated shop rooms to different individuals. One of the allottees of shop prayed for modification of the structures by removing the partition. The Department sent the matter to the engineering wing. The petitioner gave affirmative opinion regarding modifications. He also made it clear that the loss was to be recovered. Although the matter was handed over and the petitioner was to retire on 31st March, 2025, on 06th March, 2025, after more than four years and without explanation for the delay, a show cause notice was given to the petitioner

alleging that the petitioner did not mention about the sum to be recovered in respect of electrical equipments. The petitioner sent a reply on 11th March, 2025. Yet, a charge memorandum was submitted against the petitioner and was sent to him on 30th March, 2025, which was Sunday. On 31st March, 2025, which was a public holiday because of the festival of Eid, the Lieutenant Governor signed an order of suspension, although the petitioner was to retire on the very same date. This was not legally tenable. Besides, it is futile to issue of a suspension letter when the petitioner was to retire on the same date. In fact, after the last working day i.e. 28th March, 2025, there was no employee and employer relationship between the parties.

Learned senior counsel representing the respondent authorities denies the allegations and relied on a written response given by the Administrative Officer of the Port Blair Municipal Council, which is taken on record, a copy of which supplied to the learned counsel of the petitioner. He submits that on 31st March, 2025 the petitioner was still in employment and therefore, an order of suspension could have been passed. As it was the year-end, an order could have fairly been passed in this regard. In fact, as per Rule 69 of the CCS(Pension) Rules, the petitioner was entitled to receive provisional pension even during period of suspension. The respondents seek to file opposition.

Opposition be filed within three weeks from date. Reply, if any, be filed within a week thereafter.

List this matter for hearing after four weeks.

Considering the peculiar circumstances that a proceeding was initiated against the petitioner after a delay of about four

years, an order of suspension was issued on a public holiday and on the date on which the petitioner was to retire and for the balance of convenience, the impugned order of suspension shall be kept in abeyance till the disposal of the writ petition.

Pending disposal of the petition, the provisional pension may be released to the petitioner, in accordance with law and as expeditiously as possible.

Urgent certified copy of this order be supplied to the learned counsels for the parties upon compliance of usual formalities.

(Jay Sengupta, J.)