

WPST 71 of 2024
(Sri Saurav Krishna Basu Vs. The State of
West Bengal & Ors.)

Mr. Tulshidas Ray
Mr. Tirthankar Roy

..... **For the petitioner**

Mr. Amitesh Banerjee, Sr. Standing Counsel
Ms. Sonal Sinha
Ms. Ashnita Chakraborty
Mr. Akash Dutta

..... **For the State**

Affidavit-of-service filed by the petitioner be kept on record.

The present writ petition has been preferred challenging an order dated 1st April, 2024 passed by the learned Tribunal in the original application being OA 94 of 2024. By the said order, the petitioner's prayer to direct the Enquiry Officer, being the respondent no.4 to allow him to submit the written statement of defence in connection with the disciplinary proceeding being proceeding no. 04/2022 dated 27th August, 2022 was turned down observing, *inter alia*, that the petitioner in terms of the provisions of Regulations 861(c) of the Police Regulations of Bengal, 1943 (hereinafter referred to as PRB) did not file the written statement of defence within a reasonable period of time.

Drawing our attention to the documents annexed at pages 26 to 42 of the writ petition, Mr. Ray, learned advocate appearing for the petitioner submits that the petitioner repeatedly requested the authorities including

the Enquiry Officer to allow him to submit the written statement of defence but such prayer was refused without any reason and the written statement of defence was not accepted. Such issue, as urged, was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Banerjee, learned Senior Standing Counsel appearing for the respondents denies and disputes the contention of the petitioner and submits that the petitioner himself did not take appropriate steps to file the written statement of defence and for such laches and non-cooperation on his part, the learned Tribunal has rightly rejected his prayer.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Records reveal that a chargesheet was issued against the petitioner on 27th August, 2022. Immediately upon receipt of the said chargesheet, the petitioner submitted a representation on 6th September, 2022 denying the allegations and sought for an open enquiry. By a further representation dated 27th September, 2022, the petitioner renewed his prayer to allow him to submit the written statement of defence. As the petitioner was not informed, who had been appointed as the Enquiry Officer, he submitted a further representation to Deputy

Superintendent of Police (Security), Intelligence Branch on 27th July, 2023. From the extract of an order dated 20th July, 2023, as communicated thereafter, the petitioner came to learn that the respondent no.4 had been appointed as the Enquiry Officer and in the said order the Enquiry Officer observed that only the petitioner's preliminary written statement of defence would be considered. No reason was, however, disclosed as to why the petitioner's written statement of defence would not be accepted and that as such the petitioner submitted a further representation to the Enquiry Officer on 22nd December, 2023 renewing his prayer to allow him to submit the written statement of defence as per Regulation 861(c) of PRB, 1943, but in vain.

Fairness and reasonableness are paramount issues for administrative action. In a disciplinary proceeding, the employer is under an obligation to ensure that no prejudice is caused to its employee. The principle implies a duty to act fairly.

In the said conspectus, we are of the opinion that the petitioner's prayer to allow him to file the written statement of defence ought not to have been refused by the learned Tribunal.

Accordingly, the order impugned in the present writ petition is set aside and the petitioner is granted leave to file the written statement of defence to the Enquiry

Officer, being the respondent no.4 herein, positively within a period of 2 (two) weeks from date.

In the event such written statement of defence is submitted to the Enquiry Officer within the period as specified, the said respondent shall accept and consider the same returning his findings on the issues agitated by the petitioner in the written statement of defence.

It is further directed that the petitioner shall extend all cooperation to the respondent no.4 so that the enquiry may be completed expeditiously.

It is also made clear that in the event the petitioner fails to submit the written statement of defence before the Enquiry Officer within the time as directed above, it shall be deemed that the petitioner has waived his right to file such written statement of defence.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)