

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

**The Hon'ble Mrs. Urmita Datta (Sen)
MEMBER (J)**

-AND-

**The Hon'ble Mr. P. Ramesh Kumar
MEMBER(A)**

**J U D G E M E N T
-of-
Case No. OA-443/2014**

Joy Gopal Chakraborty.Applicant .

-Versus-

State of West Bengal & others....Respondents

**For the Applicant :- Mr. Goutam Pathak Banerjee,
Ld. Advocate.**

**For the State Respondent :- Mr. Manujendra Narayan Roy,
Ld. Advocate.**

Judgement delivered on: 24th May, 2019.

**The Judgement of the Tribunal was delivered by:-
Mrs. Urmita Datta (Sen), Member (J).**

J U D G E M E N T

1. The instant application has been filed praying for following relief:
 - (a) A direction to issue on the respondents forthwith rescind/cancel/withdraw the order of dismissal and to pay the applicant all financial benefits to which the applicant is entitled to in law.
 - (b) A direction to issue upon the respondents to take all steps necessary for the fixation/re-fixation of the amount of pension and to pay the applicant all sum fallen due to and payable to the applicant within a particular period of time specified by this Ld. Tribunal.
2. As per the applicant, while he was posted at Dhupguri Police Station. Initially, he was suspended on 26.10.1993. Subsequently, he was served with a Charge Sheet dated 08.04.1994. He participated in the disciplinary proceeding and on 12.09.94 a provisional order of dismissal was served upon him against which the applicant had submitted his reply on 03.10.1994.
3. Thereafter on 05.10.94, the applicant filed a writ petition being C.O.No.11303 (W) of 1994 before the Hon'ble High Court against the said provisional order of dismissal. Though the Hon'ble High Court had granted status quo against the said provisional order, however, the applicant was served with an order of dismissal dated 12.09.94 (Annexure A).
4. Being aggrieved with, the applicant challenged the order of dismissal by a fresh writ petition being C.O.No.13855 (W) of 1995. Subsequently, the said writ petition was transferred to this Tribunal after its commencement. On 28.07.1997, the Tribunal directed the respondent to pay the applicant subsistence allowance in view of the order of status quo granted on 05.10.1994. Finally vide order dated 30.03.98, this Tribunal set aside the order of dismissal dated 17.08.94 with a direction to the respondents to grant opportunity and pass a fresh order against the said order dated 30.03.98.
5. The applicant as well as state respondents both had filed two Writ Petitions being WPST No.234 of 1998 (filed the applicant) and WPST No.314 of 1998 (filed by respondents) on 05.04.1998 and 30.06.1998 respectively before the Hon'ble High Court, Calcutta. Subsequently, the Hon'ble High Court took up both the writ petition on 23.11.98 and by their common judgement/order dated 23.11.98, the Hon'ble High

Court had upheld the order of dismissal by allowing writ petition filed by the State Respondents and dismissed the Writ Petition filed by the applicant.

6. Being aggrieved with the Applicant approached the Hon'ble Apex Court challenging the judgement dated 23.11.1998, in SLP (Civil) No. CC 5344-45 of 2000. However, the Hon'ble Apex Court vide their order dated 11.09.2000 dismissed both the appeal on the ground of delay as well as on merit.
7. In the meantime, one criminal case being Special Case No.37 of 1999 was initiated against the applicant with some identical charges as was in the departmental proceeding. However, the Learned Additional Sessions Judge, Special Court Jalpaiguri vide judgement dated 30.04.2010 had acquitted the applicant from the said criminal charge (Annexure B). Thereafter, the applicant made a representation dated 24.05.13 before the authorities praying for consideration of his case in the light of the judgement passed by the competent Criminal Court (Annexure C) which is still pending before the authority. Being aggrieved with, he has filed the instant application.
8. The respondents have filed their reply, wherein they have stated that the order of dismissal against the applicant has attained finality by the order of Hon'ble Apex Court on 11.09.2000. Moreover, the criminal case initiated before the Learned C.J.M. Jalpaiguri, on the basis of a complaint lodged by one Bijoy Bhattacharjee has no connection with the disciplinary proceeding, which was initiated in the year 1994. As the purpose and objective of criminal proceedings and disciplinary proceedings are totally distinct and different, therefore, any subsequent acquittal for subsequent charges of different proceedings has no bearing with the dismissal of the applicant. Therefore, they have prayed for dismissal of the application.
9. We have heard both the parties and perused the records. It is noted that the applicant had approached up to the Hon'ble Apex Court. The Hon'ble High Court, Calcutta vide their Judgement dated 23.11.1998 held inter alia ----

“Therefore, petition W.P.S.T. 314 /98 filed by the state respondents succeeds.

Since the judgement and order passed by the learned Tribunal is liable to be quashed, the challenge by the charged officer in W.P.S.T 234 of 1998 does not survive and as such W.P.S.T. 234/98 is liable to be dismissed.

In the result, W.P.S.T. 314 OF 1998 The Superintendent of Police Jalpaigueri & Another vs. Sri Joygopal Chakraborty and others is allowed and the judgement and order dated 30th March, 1998 passed by the learned Tribunal is quashed and set aside and the order of dismissal dated 7th October, 1994 passed against Joygopal Chakraborty is declared to be valid.

W.P.S.T 234/98 Joygopal Chakraborty vs. State of West Bengal & ors. is dismissed.

In the circumstances, there shall be no order as to costs in either case.”

Against which the applicant moved before the Hon’ble Apex Court against the judgement dated 23.11.98 and upon hearing both the parties, the Hon’ble Apex Court vide their order dated 11.09.2000 held inter alia ; -

“The Special Leave Petitions are dismissed both on the grounds of delay as well as on merits.”

10. In view of the above facts & circumstances, it is observed that the disciplinary proceeding as well as its outcome by way of dismissal of the applicant has attained finality. Thus, any subsequent acquittal in different proceedings i.e. in a criminal case has no bearing with the disciplinary proceeding. Moreover, the disciplinary proceeding was initiated in the year 1994 which came into end by way of final order dated 07.10.1994. Even the Hon’ble High Court affirmed the order of dismissal on 23.11.98 followed by Apex Court judgement dated 11.09.2000. Therefore, in our considered view there is no scope to entertain the instant application. Accordingly, OA is dismissed with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)