(1983) 05 CAL CK 0018

Calcutta High Court

Case No: C.O. No. 1509 (W) of 1983

In Re: Amal Krishna Das — APPELLANT

Vs

RESPONDENT

Date of Decision: May 11, 1983

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: 86 CWN 795

Hon'ble Judges: Mookerjee, J

Bench: Single Bench

Advocate: Amal Krishna Das, for the Appellant;

Final Decision: Dismissed

Judgement

Mookerjee, J.

The petitioner, Amal Krishna Das under registered cover sent this writ application to his Lordship Hon''ble Mr. Justice P.C. Borooan, who having directed the matter to be placed before the Hon''ble Chief Justice, the application has been assigned to me for disposal. At the outset I may point out that this writ application is not in form and is accordingly defective. The application does not bear any stamp and it has not been also supported by affidavit. Rules framed by the Full Court in exercise of powers under clause 29 of the Letters Patent are binding upon me. It would not be in accordance with the Rules relating to application under Article 226 of the Constitution framed by this Court to address a writ application individually to any one of the Judges of this Court. While I fully share the anxiety to do justice. I am of the view that if Rule Nisi under Article 226 of the Constitution is issued not upon an application formally drawn up but by taking notice of a private communication, the same would create serious procedural difficulties and might prevent the court from doing complete justice between the parties. It would be for the Full Court to consider whether the Rules framed for regulation of proceedings under Article 226 of the Constitution ought to be suitably altered. But I do not propose to reject this

application only on aforesaid technical grounds, because I am not also inclined to entertain this writ application on merits.

2. The petitioner was an employee of Settlement Department and had been placed under, suspension with effect from 7th December, 1961. The departmental authority has thereafter served a charge-sheet upon him dated 8th October 1964 I find no substance in the contention of the petitioner that the delay in issuing the said charge-sheet had in any way vitiated the disciplinary proceeding held against him. In the absence of any time limit prescribed by the Rules, on the sole ground of delay, the three charges framed against the petitioner cannot be held to be not sustainable.

3. The enquiry officer found the petitioner guilty of two out of the three charges framed against him. The Settlement Officer had asked the petitioner to show cause Why he shall not be removed from service. The petitioner had shown cause Thereupon, the Settlement Officer had removed the petitioner from service by his order dated 28th February, 1966. The petitioner being aggrieved had preferred an appeal which was dismissed by Director of. Land Records. The petitioner''s revisional petition dated 7th March, 1967 was dismissed by the Board of Revenue which was conveyed to the petitioner by memo dated 11th January 1973. The petitioner has failed to substantiate prima facie that either the charge sheet or the disciplinary proceeding including the appellate and revisional orders suffered from any jurisdictional error warranting interference under Article 226 of the Constitution. The petitioner cannot be permitted to challenge the findings of fact by the departmental authorities. Therefore, I am not in a position to entertain the plea that the petitioner was in fact examined by the Chief Medical Officer of Health, Howrah on 9th September, 1963 and 10th September, 1963 and that the contrary findings were not true. There is nothing on record to indicate that the petitioner did make a prayer for calling the records from the office of the Chief Medical Officer to substantiate his plea. The petitioner has drawn my attention to his appeal petition in which he had made a grievance to the effect that the records of the C.M.O. would have shown that the said officer had made certain endorsements on the body of letter which the petitioner has allegedly written. In my view, the same cannot be raised for the first time in this writ application which in fact does not contain any averments to the above effect. In fact, the writ application does not contain any ground challenging the validity of the enquiry proceeding directed against the petitioner. This court cannot assume appellate powers and decide whether the findings of fact made against the petitioner were correctly arrived at. I may further point out that this petition suffers from inordinate and unexplained dealy of about eight years.

Therefore, this application fails and is accordingly rejected without any order as to costs.