21.09.2026
Item No.07
Court No.11
Avijit Mitra

WP.ST 130 of 2026

Dhirendra Nath Mahato
-Versus -
State of West Bengal & ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.,
Ms. Santi Das,
Ms. Satabdi Das
.....for the petitioner
Mr. D.N. Ray, Ld. G.P.,
Mr. Guddu Singh,
Mr. Sourav Halder
...for the State

Records reveal that the petitioner herein, namely, Dhirendra Nath Mahato (in short, Dhirendra) preferred an original application (in short, OA) being OA No.332 of 2025 before the learned Tribunal challenging the disciplinary proceeding including the chargesheet, the inquiry report, the second show cause notice, the final order of punishment and the order passed in the statutory appeal. During pendency of the OA, the learned Tribunal stopped functioning and as Dhirendra was rendered remediless, he was constrained to prefer the present writ petition.

Ms. Das, learned advocate appearing for Dhirendra submits that Dhirendra was illegally roped into a disciplinary proceeding which was initiated *vide* chargesheet dated 21st December, 2023 issued by the respondent no.4. The replies to the chargesheet and the inquiry report submitted by Dhirendra were not appropriately considered by the Disciplinary Authority

(in short, DA) prior to issuance the order of penalty dated 28th February, 2025. The statutory appeal preferred against the same was also dismissed by a cryptic order dated 7th July, 2025. In the midst thereof, Dhirendra was suspended by an order dated 5th December, 2023 and such order of suspension was withdrawn on 8th March, 2024.

Ms. Das submits that the Enquiry Officer (in short, EO), the DA and the Appellate Authority (in short, AA) did not take into consideration the report submitted by the Joint Commissioner of Police (Training), Kolkata, Police Training Academy dated 6th December, 2023 wherein it was detailed as to why Dhirendra was constrained to relocate the vehicle. On the date of the incident, the local residents complained that foul odour was being emitted by the said mobile van. Due to such public commotion and as the driver of the said vehicle being a Civic Volunteer was not present at the site, Dhirendra was constrained to drive the vehicle mistakenly and in hot haste without any intent to cause damage to the car or the guardrail, placed in front of 188A, Harish Mukherjee Road, Kolkata-26 or the main entrance door of the said premises but such mistake was illegally construed to be a misconduct.

She argues that the DA proceeded on an erroneous premise treating Dhirendra to be a Police Driver though a memo dated 3rd September, 2007 issued by the respondent no.4 would clearly reveal that as per the

direction of Standing Medical Board on 14th March, 2007, Dhirendra was found to be symptomatic and incapable of performing duty of Police Driver and it was suggested that he should be allowed to perform some other light job.

She further argues that a perusal of the order of punishment as well as the order passed by the AA would reveal that the authorities proceeded to dismiss Dhirendra as he arrogantly refused the offer given to him in course of hearing before the DA to perform indoor duty and as there was no repentance in his behaviour. Such alleged act ought not to have been construed as a misconduct in the disciplinary proceeding since no charge to that effect was framed.

Mr. Ray, learned Government Pleader appearing for the State denies and disputes the contention of Ms. Das and submits that as Dhirendra was not assigned any duty to drive the vehicle and as he was not having a valid driving licence, he should not have ventured to drive the vehicle on a purported plea that the driver was not present at that juncture. Such an act of Dhirendra might have resulted in loss of life and for such illegal act, Dhirendra had been rightly penalized.

He argues that the depositions of the witnesses as well as the reply submitted by Dhirendra were duly considered and there had been no violation of the principles of natural justice warranting interference of

this Court. It is also not a case that the finding of misconduct is not based on any evidence.

Answering our query, Mr. Ray has placed before us the provisions of Chapter XIX of the Police Regulations of Calcutta, 1968 and a notification No.4114-P1 dated 04th October, 1962 which details the major and the minor penalties that can be imposed by the competent authority. Let the said document, as placed, be kept on record.

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

It would be explicit from the memo dated 3rd September, 2007 issued by the respondent no.4 that Dhirendra was found to be symptomatic and not fit to discharge the duties of a Police Driver and that accordingly he was allowed to perform light job. It thus cannot be ruled out that such fact was known to the respondents. In view thereof, the alleged charge that Dhirendra had suppressed that he had no valid driving licence, is not based on proper evidence.

Dhirendra was not assigned any job to drive the vehicle. However, he was given the responsibility to supervise the duties of the driver. Dhirendra had admitted that while driving the vehicle, he committed a mistake but such act cannot be construed to be a *mala fide* one. It also cannot be ruled out that Dhirendra was constrained to drive the vehicle for the purpose of

relocation due to the commotion and complaint of the local inhabitants, who protested against the foul odour emitted by the mobile van. In the said conspectus, such act of Dhirendra does not appear to be a deliberate act to cause harm to the vehicle or to the adjoining guard rails or to the main entrance door of the premises.

A perusal of the orders passed by the DA, i.e., the respondent no.4 and the order passed by the AA would reveal that the purported refusal of Dhirendra to accept the offer given to perform indoor duty weighed with the authorities in imposing the punishment of dismissal from service though such alleged act ought not to have been construed as a misconduct in the disciplinary proceeding since no charge to that effect was framed.

Measure, magnitude and degree of misconduct needs to be taken into consideration for weighing the proportion of punishment. Regard being had to the facts involved and the nature of post held by the petitioner, we are of the opinion that the doctrine of proportionality is invokable. In a case where the original punishment is set aside, only to be substituted by a new punishment, pursuant to an order of judicial review, then ordinarily such substituted punishment would relate back to the date of original punishment.

In view of the discussion made above, we find that the punishment of dismissal imposed upon Dhirendra is too harsh in the facts and circumstances of the case

and to put a quietus to the matter, it would be appropriate to direct substitution of the punishment of dismissal.

Accordingly, the order of dismissal dated 28th February, 2025 issued by the respondent no.4 and the order passed by the AA dated 7th July, 2025 are set aside and the respondents are directed to impose any minor penalty as detailed in the notification no.4114-P1 dated 4th October, 1962 from the date of imposition of the punishment of dismissal from service. The respondents shall reinstate the petitioner with all continuity in service and shall grant all consequential benefits within a period of eight weeks from the date of communication of this order.

With the above observations and directions, the writ petition and the original application being OA 332 of 2025 are disposed of.

The Registry is directed to intimate this order to the Registrar, State Administrate Tribunal for recording the disposal of the OA.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**