

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Electric Instruments and anr. Vs. State of West Bengal and ors.

Electric Instruments and anr. Vs. State of West Bengal and ors.

SooperKanoon Citation : sooperkanoon.com/866653

Court : Kolkata

Decided On : Nov-07-1997

Reported in : (1999)ILLJ877Cal

Judge : V.K. Gupta and ;Vidyanand, JJ.

Acts : [Industrial Disputes Act, 1947](#)

Appeal No. : M.A.T. No. 3454/1997

Appellant : Electric Instruments and anr.

Respondent : State of West Bengal and ors.

Advocate for Def. : C.L. Ganguli, ;B.R. Bhattacharyya and ;Gautam Kumar Das,
Advs. for Respondent No. 2

Advocate for Pet/Ap. : Arunava Ghosh, ;Partha Bhanja Chowdhury and ;Swarup Paul, Advs.

Disposition : Appeal allowed

Judgement :

V.K. Gupta and Vidyanand, JJ.

1. Feeling aggrieved by the order dated August 7, 1996, the appellant filed writ application in this Court. The learned Single Judge vide judgment dated May 9,

1997 while partly allowing the writ application declined to interfere with that part of the order of the Tribunal, the respondent No. 2, whereby the charge-sheet served upon respondent No.3 was held to be vague. Other part of the impugned order dated August 7, 1996 whereby it was held by the Tribunal that there is no ground and justification for proceeding against respondent No.3 and taking disciplinary action against him on the basis of the report of the Enquiry Officer was set aside by the learned Single Judge.

2. We have heard the learned Advocates appearing for the parties and carefully gone through the record of the case. In our considered opinion the issue of vagueness of the charge-sheet at the threshold of the proceedings should not have been gone into by the respondent No.2 and in any case both the aforesaid issues were so closely inter-linked with each other that the learned Single Judge should have refrained from expressing opinion about the aspect relating to the vagueness of the charge-sheet, especially when the other part of the order was set aside and the proceedings were allowed to continue before the Tribunal. We are firmly of the view that the Tribunal which is served of the proceedings and where evidence is to be adduced by both the parties should be allowed to decide all issues of controversy involved, including that relating to the vagueness of the charge-sheet. Undoubtedly, vagueness of the charge-sheet is an issue of vital importance which in some cases goes to the very root of the domestic enquiry and if ultimately it is found that the charge-sheet served upon respondent No.3 was in fact vague, it shall be open to the Tribunal to find out its true effect upon enquiry and the punishment awarded to respondent No. 3. However, the finding at the initial stage about the vagueness cannot be sustained. For the foregoing reasons therefore, we allow this appeal and while setting aside the judgment of the learned Single Judge hold that the Tribunal was incorrect in declaring the charge-sheet to be vague at that stage of the proceedings. We accordingly direct that the Tribunal shall go on with the proceedings, totally uninfluenced in any manner by its own order dated August 7, 1996 and by the order of the learned Single Judge dated May 9, 1997. It shall be open to the Tribunal to decide all issues finally, including that relating to the vagueness of the charge-sheet and its effect upon the enquiry proceedings as also the punishment awards. Since the matter is very old, we direct that the Tribunal shall proceed in the matter very expeditiously with utmost

despatch and without wasting any time whatsoever. We direct that the proceeding may commence in right earnest itself. The appeal is finally disposed of. There will be no order as to costs. No part of our judgment shall be construed as any expression of any opinion about the merits of the controversy between the parties.

3. Let plain copy of this order countersigned by an Assistant Registrar (Court) be given to the learned Advocates appearing for the parties.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com