

Item No.- 22
07.09.2026
Court No. 4
Rohan

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**FMA 24 of 2024
With
I.A. No.: CAN 2 of 2024**

**The State of West Bengal & Ors.
Versus
Smt. Monika Ghosh**

Ms. Chandreyi Alam, Ld. AGP
Mr. Ravi Kumar Dubey

... for the Appellant

Mr. Anil Kumar Chattopadhyay

... for the Respondent

1. Heard the learned advocate for the appellant and the writ petitioner.
2. The writ petitioner was selected as Auxiliary Nurse and Midwife (ANM) in the year 2009. The District Magistrate found some infirmity in her appointment and she was accordingly removed by an order dated 16th April, 2013. The petitioner, thereafter, pursued the matter by filing a writ petition, WP 15648(W) of 2013. The same was disposed of by an order dated 12th December, 2019. The writ petitioner preferred an Intra-Court appeal being MAT 111 of 2020. The Hon'ble Division Bench was of the view that the petitioner's removal was unsustainable and that she was required to be given an appointment forthwith. The direction of the Hon'ble Division Bench contained in the judgment

dated 15th January, 2021 was complied with by the authorities by issuing an appointment order dated 12th February, 2021. The petitioner, thereafter, availed the benefit of the Hon'ble Division Bench order and joined the employment given to her on a consolidated remuneration of Rs. 17,360/-.

3. The writ petition was filed in 2021 claiming pay from the period 2013 till the new employment order dated 12th February, 2021 which was allowed by the learned Single Bench by an order dated 4th April, 2023 observing that the period between May, 2013 and January, 2021 was a "*forced unemployment*". The order of the learned Single Judge is the subject matter of the present appeal.
4. The abovenoted facts are not in dispute. The issue, therefore, arising is whether writ petition could have been filed for grant of pay/wages for a period between May, 2013 to January, 2021, when the same was not granted by the Hon'ble Division Bench in MAT 111 of 2020.
5. We have considered the submissions of the learned advocate for the State as well as the learned advocate representing the respondent/writ petitioner.
6. There is no dispute that the order of the Hon'ble Division Bench was not put to challenge by the writ

petitioner, despite the fact that it did not allow any benefits for the period from her initial disengagement since May, 2013. There is also no dispute that the authorities complied with the order of the Hon'ble Division Bench by issuing an employment order on 12th February, 2021. We find that the writ petitioner accepted the order of the Hon'ble Division Bench and the appointment without any objection or demur. Under the circumstance, there was no scope for the writ petitioner to thereafter file a writ petition seeking benefit for the period from May, 2013 till January, 2021, let alone passing of orders thereupon by the learned Single Judge Bench. The order dated 4th April, 2023 passed by the learned Single Judge, which is under appeal has the effect of modifying the order passed by the Division Bench in MAT 111 of 2020.

7. For the reasons and in view of our above consideration, we find that the direction of the learned Single Judge in the order under appeal dated 4th April, 2023 holding the writ petitioner entitled to 50 % of back wages from May, 2013 till January, 2021 is unsustainable.
8. The appeal is allowed.
9. The order dated 4th April, 2023 in WPA 17637 of 2021 passed by the learned Single Judge is set aside.

10. Accordingly, the appeal is disposed of. Connected application, if any, also stands disposed of.

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

(Madhuresh Prasad, J.)

(Partha Pratim Roy, J.)