

05.10.2023
Item No.39
gd/ssd

CPAN/1381/2019
ABUL KALAM
VS
MD. AIZIZ ANWAR & ANR.
in
WPA/11777/2018
IA NO: CAN/1/2019(Old No:CAN/11718/2019)
ABUL KALAM
VS
STATE OF WEST BENGAL & ORS.

Dr. Debabrata Karan,
Ms. Sabita Khutia (Bhunya),
Mr. Debopriyo Karan
..for the Petitioner.

Mr. Suman Dey
..for the Alleged Contemnor.

The petitioner has filed the contempt application being CPAN 1381 of 2019 for alleged willful and deliberate violation of the order passed by this court dated 23rd August, 2018.

After filing of the present contempt application, the Director of Pension, Provident Fund and Group Insurance i.e. the respondent no.5 had filed an application being CAN 11718 of 2019 for recalling/modification of the order dated 23rd August, 2018 on the ground that this court while allowing the writ application directed the respondents to immediately take steps to disburse the arrear of family pension of the petitioner with effect from 5th September, 2005 till 12th January, 2009 with interest at the rate of

8% per annum without any further delay but positively within six weeks from the date of communication of this order. Failing which, the petitioner is entitled to enjoy additional 2% interest from the date of actual payment.

The order was passed on 23rd August, 2018 and the petitioner has filed the contempt application on 8th November, 2019.

After filing of the contempt application, the authorities have filed the present application for recalling of the order on the ground that the petitioner is not entitled to get the benefit as the benefit come into effect only on 13th January, 2009.

Counsel for the petitioner submits that the writ petitioner has communicated the order dated 23rd August, 2018 only in the month of February, 2019 and thereafter the respondents came to know about the order passed by this court.

The submission made by counsel for the petitioner is not in consonance with the document. The order dated 23rd August, 2018 was passed by this court in presence of the State respondents. Even if this court will take into consideration that the respondents came to know about the order dated 27th February, 2019 but the respondents have filed CAN on 29th November, 2019.

The State respondent has not filed any application for condoning the delay though there is a delay of more than two years.

Accordingly, this court finds that the application filed by the authorities is not maintainable and barred by limitation.

Thus, CAN 11718 of 2019 is dismissed.

The reply filed by the counsel for the petitioner be kept with the record.

The alleged contemnor has not complied with the order in full.

Accordingly, Rule be issued upon the contemnor no.1 to appear before this court in person on 23rd November, 2023.

(KRISHNA RAO, J.)

**Rule is in
a separate
sheet**