

Item No. 5

22.12.2020
Ct. No.24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)

WPA No. 8376 of 2020

Smt. Manasi Das

v.

The State of West Bengal & Ors.

Ms. Sudipa Banerjee

Ms. Sneha Datta

... for the petitioner.

Mr. Tapan Kumar Mukherjee, Sr. Advocate

Mr. Sougata Mitra

... for the State respondents.

The petitioner was serving as an Anganwadi worker. She was prevented from performing her duties for the period June 2009 to October 2019. The petitioner approached this Court on an earlier occasion. In the writ petition filed by the petitioner being WP No. 15073(W) of 2009 this Court by order dated January 28, 2010, inter alia, directed the Block Development Officer to consider the grievance of the petitioner. The Court further directed that the said officer should consider whether the petitioner was ready and willing to work, but was prevented by the persons named in the petition from carrying out her duties. In case it is established that she was prevented from carrying out her duties then appropriate measures to be taken to ensure that she is

allowed to work and the question of releasing of the remuneration for the period should also be considered.

The Child Development Project Officer by an order dated September 6, 2019, in compliance of the order passed by the Court, expressed his opinion that the petitioner was prevented from discharging her duties at the Anganwadi Centre assigned to her, by circumstances beyond her control, in spite of having the intention of carrying out her duties. Since the petitioner had been prevented from working by circumstances beyond her control, in spite of her willingness to work with sincerity and diligence, the reinstatement of the petitioner may be considered sympathetically. It was mentioned in the said order that the petitioner will receive an order from the appointing authority for posting at any Anganwadi centre with effect from November 1, 2019. The order, however, records that there shall be no order regarding release of remuneration of the petitioner for the period from June 2009 to October 2019.

The petitioner submits that after the aforesaid order was passed she has been permitted to join the Anganwadi centre.

The petitioner thereafter made a representation praying for release of the arrear remuneration for the period she was forcefully prevented from discharging her duties.

The petitioner alleges that her representation has not been considered by the respondent authorities till date.

The learned senior counsel representing the State respondents submits that the petitioner has not challenged the order dated September 9, 2019 where direction has been passed not to release her remuneration for the period June 2009 to October 2019.

It appears from the order passed by the Hon'ble Court on January 28, 2010 that the authority was categorically directed to consider the question of releasing the remuneration for the period she was prevented from performing her duties.

The order dated September 6, 2019 though records that no order regarding release of remuneration will be made, but no reason whatsoever has been mentioned in the said order, as to why, the petitioner shall not be paid her remuneration, even though she expressed her willingness to work but was not permitted to discharge her duties. Moreover, the order dated September 6, 2019 fortifies the submission of the petitioner that she was prevented from discharging her duties.

The authority concerned after considering all the relevant documents of the case was of the same opinion that though the petitioner was willing to perform her

duties, she was prevented from doing so, by circumstances beyond her control. In such a situation the prayer of the petitioner was for release of remuneration appears to be a genuine one.

In view of the above, the instant writ petition is disposed of by directing the Child Development Project Officer as to provide the reasons in support of the decision of not releasing the remuneration of the petitioner, for the period she was forcefully prevented from discharging her duties.

The said respondent shall communicate the reasons to the petitioner within a period of six weeks from the date of communication of a copy of this order.

The writ petition being WPA No. 8376 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

sh

(Amrita Sinha, J.)