

WPO 276 of 2020
WITH
IA NO: GA 1 of 2020
IN THE HIGH COURT AT CALCUTTA
Testamentary and Intestate Jurisdiction
ORIGINAL SIDE

BANDHUPRIYA SARKAR
VS
STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 24th September, 2020.

Appearance:
Mr. Victor Dutta, Adv.
...for the petitioner.
Ms. Chaitali Bhattacharyya, Adv.
Mr. Subhendu Roychoudhury, Adv.
...for the respondent.

The Court : Learned Counsel for the petitioner argues that the petitioner is being deprived of his due salary despite the petitioner having sought for leave on extremely urgent grounds, which was deliberately overlooked by the respondents.

Learned Counsel further submits, by placing reliance on Memorandum no. 10/DPRDO dated January 2, 2020, that clarification regarding the petitioner's alleged misconduct and absence from his office was sought in extremely vague terms, although the petitioner had already applied for leave several times.

Learned Counsel appearing for the State submits on the basis of Memorandum no. 431/DPRDO dated March 18, 2020 that sufficient reason was mentioned therein and communicated to the petitioner for such non-payment of salary for the relevant period.

Learned Counsel for the State respondent further submits that, in the matter, an equally efficacious alternative remedy is available before the West Bengal State Administrative Tribunal and as such this Court ought not to interfere in the matter and/or entertain the same.

However, such question of maintainability cannot be an impediment or an absolute bar to the exercise of discretion by the Court, particularly since the petitioner has made out an urgent case.

However, it appears from the communication dated March 18, 2020 that sufficient reasons were shown for the non-payment of the petitioner's salary for the relevant period, in view of the absence of the petitioner and unauthorized leave having been taken by the petitioner. Certain other allegations of misconduct were also intimated to the petitioner, as annexed to the writ petition itself, inter alia, on January 2, 2020. The petitioner replied thereto. Considering such reply, the respondents took conscious decision to withhold the salary, also prima facie making out the case of insubordination.

There is a limit up to which court of law should interfere with the exercise of administrative discretion of the authorities. In this particular case, since the factual allegation against the petitioner were already controverted by the petitioner and a consideration was given to such objections before deciding to withhold the petitioner's salary for the period-in-question, interference by the Court is inappropriate in such an employer-employee relationship. In such view of the matter, WPO 276 of 2020 is dismissed on contest without any order as to costs.

(SABYASACHI BHATTACHARYYA, J.)