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PA(SG)
8.2.2021

**WPST 38 of 2020
(Through Video Conference)**

**Balai Chakraborty
Vs.
The State of West Bengal & Ors.**

Mr. Bikash Ranjan Neogi,
... Advocates for the petitioner through V.C.

Ms. Ananya Neogi and Mr. Guddu Singh,
... Advocates for the petitioner present in Court

Mr. Tapan Kumar Mukherjee and Mr. Somnath
Naskar
.... Advocates for the State present in Court

Challenge in the present petition is to the order dated 7/11/2019 passed by the West Bengal Administrative Tribunal (for short 'the Tribunal') whereby the Original Application filed by the petitioner was dismissed.

The petitioner had filed application before the Tribunal seeking a direction for issuance of appointment letter in his favour in terms of order passed by this Court on September 03, 1997 in C.O. No.13254(W) of 1993. The application filed by the petitioner was dismissed by the Tribunal on account of lack of jurisdiction.

The argument raised by learned Counsel for the petitioner is that the order passed by the Tribunal is

erroneous as for any relief with reference to service dispute the jurisdiction was only with the Tribunal. Hence, the application should have been entertained. Even if there was an earlier order passed by this Court in favour of the petitioner, he cannot be left remediless to get the fruits thereof. Reliance was placed upon a judgment of the Hon'ble Supreme Court in ***The Commissioner, Karnataka Housing Board Vs. C. Muddaiah***, reported as ***2007 (6) SLR 157***.

On the other hand, learned Counsel for the respondents submitted that the Original Application filed by the petitioner before the Tribunal was totally misconceived. Once the petitioner had approached this Court and the matter was disposed of by this Court way back on September 03, 1997, no application could be filed before the Tribunal seeking execution of the order. In any case when the matter was decided by this Court, the jurisdiction for the purpose was not available, as vide Notification No.477-F dated 13th January, 1995 Tribunal had been constituted in the State of West Bengal to decide the service dispute pertaining to employee of the State Government.

Heard learned Counsels for the parties and perused the paper book.

In our opinion, there is no error in the order passed by the Tribunal whereby Original Application filed by the

petitioner has been dismissed. It is evident from record that the petitioner filed C.O. 13254(W) of 1993 before this Court praying for a direction to the Superintendent of Police to appoint him as constable in Murshidabad District since he was finally selected for appointment as constable. The same was disposed of on September 03, 1997. Prior to that vide Notification No.477-F dated 13th January, 1995 the Tribunal had been constituted in the State of West Bengal to hear and decide the disputes pertaining to the service matter of the State Government employees.

The order passed by the Single Bench dated September 03, 1997 was challenged by the State. The appeal being belated, the same was dismissed for non-prosecution on February 14, 2002. Even recalling application was also dismissed on March 20, 2016. Another fact which has been noticed by the Tribunal in the impugned order is that the petitioner filed Contempt Petition bearing No. CPAN No.1759 of 2015, which was dismissed by this Court on December 04, 2015 being delayed.

Be that as it may beside the facts, as have been noticed above, any application filed by a litigant before the Tribunal seeking execution of an order passed by this Court will not be maintainable as the Tribunal is not executing court for the orders passed by this Court. It was for the petitioner to avail of appropriate remedy for seeking

relief in terms of the order passed in his favour around two decades back. In fact, it seems to be a luxury litigation which the petitioner wants to continue as even Contempt Petition was filed by him in the year 2015, that is, about two decades after passing of the order in his favour on September 03, 1997.

For the reasons mentioned above, we do not find any merit in the present petition. The same is accordingly dismissed.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)