

Item-1 05-08-2022

WP.CT 60 of 2015
CAN 2 of 2022

sg Ct. 8

Samarendu Mukherjee
Versus
Union of India & Ors.

Mr. Allen Felix, Adv.
...for the applicant

Mr. Bhudeb Chatterjee, Adv.
...for UOI

In Re: CAN 2 of 2022

This is an application for modification and/or clarification of the order dated 9th August, 2021 passed in WP.CT No. 60 of 2015.

The petitioner contends that in view of our observation in the order that the writ petition succeeded, the petitioner would be entitled to promotion. The writ petition was directed against the order dated 29th August, 2014 in O.A. No. 511 of 2012 and O.A. No. 1172 of 2012. We allowed the writ petition by setting aside of the impugned order passed by the learned Tribunal. The learned Tribunal denied the relief of seniority and retiral benefits. In our order dated 9th August, 2021, we relied upon a coordinate Bench decision. Since we find that the respondent authorities have acted in violation of the order dated 6th July, 2010, we declared the said order to be *void ab initio* and restored *status quo ante*. We relied upon a decision of the Hon'ble Supreme Court in C. **Jayachandran vs. State of Kerala & Ors.** reported at **AIR 2020 SC 3846** relied upon by the learned Counsel in the earlier proceeding in setting aside the order of the learned Tribunal and directing the authorities

to give notional appointment to the petitioner on and from 10th December, 2007 for the purpose of seniority and retiral benefits.

This application has been proceeded on the basis that, in the earlier proceeding a prayer was made for promotion.

However, it is clarified that we have not gone into the question of promotion as such issue was never pressed before us and we confined to our findings to notional seniority and retiral benefits.

After the disposal of the appeal, we feel that any such application for modification and/or clarification of our order is not maintainable. Accordingly, the application, stands dismissed. However, there shall be no order as to costs.

(Hiranmay Bhattacharyya, J.)

(Soumen Sen, J.)