

16.08.2021
Item No. 08
Crt.No.11
b.r.

MAT 508 of 2021
with
IA No. CAN 1 of 2021

Niladri Sekhar Duley
-vs-
The West Bengal & Ors.

(Via video conference)

Mr. Ekramul Bari
Mr. Shuvro Prakash Lahiri
..... For the appellant.

Mr. Koyeli Bhattacharya
..... for the Respondents/ West Bengal Board of
Secondary Education.

The appellant is aggrieved with the insufficiency interim relief granted by the Hon'ble Single Bench.

On 4th April, 2021 the Hon'ble Single Bench directed exchange of affidavits and made it clear that any subsistence allowance that was due to the petitioner shall be paid forthwith to him.

Mr. Suvro Prokash Lahairi, learned Counsel led by Mr. Ekramul Bari, learned Senior counsel, appearing on behalf of the appellant submits, as follows. The appellant was employed as a teacher in a Government school. The allegations made by the respondent-authorities were that he had taken unauthorised leave on several dates and certain sums withdrawn by him were deemed illegal due to such unauthorised absence. First, The Chairman of the West Bengal Board of Secondary Education was not the competent authority to direct departmental proceeding and issue

suspension. Secondly, as per Rule 6 of the West Bengal Board of Secondary Education (Appointment, Confirmation, Conduct and Discipline of Teachers and Non-Teaching Staff) Rules, 2018, if a disciplinary proceeding is not contemplated within 90 days from the receipt of investigation report, the employee should be allowed to resume his duty. Till date the petitioner has not received any notice regarding any disciplinary proceeding. Moreover, in different documents of the respondent authorities, the leave has been described differently. A proceeding has also been started for recovery of alleged unauthorised payment made to the appellant.

Ms. Koyeli Bhattacharya, learned Counsel appearing on behalf of the respondents-Board submits as follows. The disciplinary proceeding has already been started against the petitioner on 9th August, 2020. In fact, the disciplinary proceeding was contemplated pursuant to a direction passed by this Court. The Board strongly disputes the contentions raised by the appellant.

After hearing the learned Counsels appearing for the respective parties, this Court is of the view that the Hon'ble Single Bench rightly directed exchange of affidavits in this case. In fact, the Hon'ble Single Bench also ensured that subsistence allowance was paid to the petitioner, if applicable.

Therefore, we do not find any reason to interfere with the order passed by the Hon'ble Single Bench.

However, since the appellant has approached this Court by way of a writ application, the proceeding for recovery of purported unauthorised payment made to the appellant shall remain stayed during pendency of the writ application.

The parties shall be at liberty to take any other additional ground that may be available to them before the Hon'ble Single Bench.

Accordingly, the appeal being **MAT 508 of 2021** and its connected application being **CAN 1 of 2021** are **disposed of.**

Since affidavits are not invited, allegations made in the appeal are deemed not to have been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

(Jay Sengupta, J.)

(Subrata Talukdar, J.)