

21.01.2021
Sl. No.36
akd

W.P.A. 10172 of 2020 [via video conference]

[Biswajit Chakraborty -Vs- State of West Bengal & Ors.]

Mr. Krishnendu Gupta
Mr. Kanakendu Chatterjee
... .. for the petitioner

Mr. Joytosh Mazumder .. Ld. Govt. Pleader
Mr. Arjun Roy Mukherjee
Mr. K. M. Hossain
... .. for the State

The writ petitioner seeks compensation for a sum of Rs.25 lakhs and litigation costs for mental agony suffered by reason of actions of the State in wrongfully reducing one increment pursuant to departmental enquiry, which was challenged before the State Administrative Tribunal. By order dated 11.07.2016 the West Bengal Administrative Tribunal in O.A. 481 of 2014 held that the departmental enquiry was held in violation of natural justice and hence bad.

Apart from the delay in moving the instant writ application, this court finds that the prayer made is thoroughly misconceived. A disputed question of fact cannot be entertained by a writ court and it is preposterous to claim unliquidated and unquantified damages before a writ court.

The petitioner relied on a decision of the Supreme Court in the case of ***Nilabati Behera vs. State of Orissa & Ors.*** reported in **(1993) 2 SCC 746**. This court notes that the matter before the Hon'ble Supreme Court was a case of custodial death and compensation was awarded by the Apex Court. The said decision has no manner of application in the instant case.

Learned counsel for the petitioner has placed some portions of the order of the learned Tribunal particularly at internal page 11 of the judgment, of running page 34, indicating that the petitioner has been prejudiced by the proceedings.

The punishment order has been set aside by the Tribunal.

Learned counsel for the petitioner could not indicate to this court under what law the writ application could be entertained.

For the reasons stated hereinabove, the writ petition is summarily dismissed with costs assessed at Rs.5,100/- to be paid by the petitioner to the State. In the event of non-payment, the said amount shall be deducted by the State from the pension payable to the petitioner.

There shall be no order as to costs.

Urgent xerox certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)