

40 22.2.2021

gd/ssd

WPST 104 of 2020
(Through Video Conference)
Amit Kumar Mukhopadhyay & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bharat Bhusan, Advocate (Through VC)
..for the Petitioners

M/s Tapan Kumar Mukherjee and
Somnath Naskar, Advocates present in Court.
..for the State

Mr. Bikash Kumar Roy, Advocate present in Court.
..for the Union of India

The petitioners had filed the present writ petition in this court challenging the order dated September 2, 2020 vide which application filed by them for interim stay was rejected. It was claimed that for the last about two decades the petitioners had been working as CDPO and getting the salary for the same. However, all of a sudden they were reverted back to the post of ACDPO and their pay was also reduced.

This court vide order dated December 22, 2020 did not interfere in the matter of assignment of duties of ACDPO to the petitioners. However, it was directed that the petitioners should be paid the emoluments as they were drawing as CDPO. The order was to be operated prospectively.

Though time was granted to the respondents on December 22, 2020 to file affidavit-in-opposition within a fortnight after the Christmas Vacation, however,

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needful has not been done till date.

Considering the aforesaid factual matrix, in our opinion, the present writ petition can be disposed of by making the interim order dated December 22, 2020 absolute. However, with the rider that in case the petitioners ultimately fail before the Tribunal, they will refund the excess salary drawn by them. The interim order passed by this court will not create any equity in their favour. Nothing observed in the order passed by this court on December 22, 2020 will be taken as expression of opinion on merits as the Tribunal will decide the issues before it after hearing the parties.

The writ petition is disposed of accordingly.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)

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