

05.01.2022
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**FMA 656 of 2015
With
I.A. No.CAN 1 of 2015 (Old CAN 2145 of 2015)**

**The Statesman Limited.
Vs.
Rina Mukherji @ Rina Jamshedji & ors.**

With

**FMA 658 of 2015
With
I.A. No.CAN 1 of 2015 (Old CAN 2144 of 2015)**

**The Statesman Limited & anr.
Vs.
The State of West Bengal & ors.**

Mr. Debashis Banerjee ... for the respondent no.1
(in FMA 656 of 2015)

Since the issues involved in these appeals are identical, both these appeals are being taken up together for consideration and are being decided by this common order. For the sake of convenience, we take up FMA 656 of 2015 for discussion.

This intra-Court mandamus appeal is directed against the order dated 14th August, 2014 passed in W.P. No.24935(W) of 2013. The said writ petition was filed by the appellant / management challenging the award dated 6th February, 2013 passed by the 4th Industrial Tribunal at Calcutta in Reference Case No.VIII – 01/2004, whereby the respondent / employee was directed to be

reinstated with back wages. The respondent / employee also filed W.P. No.24935 (W) of 2013 for a direction to the Deputy Labour Commissioner, Government of West Bengal to prosecute the appellant / employer under Section 29 of the Industrial Disputes Act, 1947 for violation of the award dated 6th February, 2013. The Learned Single Bench by common judgment dated 14th August, 2014 modified the award of reinstatement to one of payment of compensation to the respondent / employee with a sum of Rs.1,00,000/- (Rupees one Lakh). Consequently, the writ petition filed by the respondent / employee was also disposed of.

Being aggrieved by the same, the appellant / management had filed this appeal. From the order sheet, we find that the matter was adjourned from time to time and pursuant to directions issued on 21st December, 2015, the respondent / employee was directed to be paid a sum of Rs.1,00,000/- subject to the conditions that the said amount shall be refunded to the appellant in case the appellant succeeds in the appeal. Pursuant to such direction, a sum of Rs.1,00,000/- has been paid to the respondent/employee by banker's cheque dated 31st December, 2015 and the acknowledgement has been placed on record.

Thereafter, the matter has been heard by the Division Bench on various dates and invariably on all occasions, the matter stood adjourned. It appears that

there were talks of settlement between the parties, which necessitated the Division Bench to pass an order on 30th July, 2015 directing the parties to file a joint affidavit placing their respective terms on record for the proposed amicable settlement. Thereafter, the matter has been adjourned and we also find that by the order dated 18th June, 2015, the matter was heard in part and thereafter adjourned.

Thus, it is clear that there was no amicable settlement, which was arrived at. The matter was listed before us on 8th December, 2021 and since none appeared for the appellant /management, we directed the matter to be listed under the caption “For Dismissal”. Even today, there is no representation on behalf of the appellant.

Thus, it appears that the appellant is not interested in prosecuting the matter.

Hence, the appeals along with applications stand dismissed for non-prosecution.

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

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)