

**18.05.2022**

Court : 04  
Item : PB-26  
Matter : MAT  
Status : DO  
Transcriber: nandy

**MAT 528 of 2022**

with

**CAN 1 of 2022**

Manabati Majumder

Vs.

The State of West Bengal & Ors.

**Mr. K.M. Hossain, Advocate**

**Ms. Keya Sutradhar, Advocate**

.....for the Appellant

**Mr. Bhaskar Prasad Vaisya, Advocate**

**Mr. Arindam Chattopadhyay, Advocate**

.....for the State

**Mr. Shamim-ul Bari, Advocate**

.....for the DPSC Malda

Pursuant to the order dated May 13, 2022 the record pertaining to WP 12765 (W) of 2007 is produced before us. The said record was directed to be produced for the single reason that the trial Court observed in the impugned order that the teacher (husband of the appellant) during his lifetime did not seriously pursued his claim despite the liberty granted by this Court in CO (W) 9451 of 1996 on September 18, 1996. It was further recorded in the impugned order that the aforesaid writ-petition being WP 12765 (W) of 2007 is still pending but in absence of the record the trial Court was of the view that there was no representation filed by the deceased teacher after the liberty was granted to him by this Court.

The record would reveal that two representations dated September 24, 1997 claiming the benefits were submitted before the competent authority which are annexed as P-4 to the said writ-petition. We have further perused the statement of the deceased teacher made in paragraph 9 of the said writ-petition wherein he has categorically stated that representation has been made while communicating the order dated September 18, 1996 but thereafter the respondent authorities did not reply to the said representation.

In view of the facts discerned from the record of WP 12765 (W) of 2007 the findings of the trial Court in the impugned order that the deceased teacher did not pursue his claim during his lifetime is contrary to the said record. Since the reason for dismissal of the writ-petition was assigned on the above score and it is found otherwise from the record of the writ-petition, which is pending before this Court, the order impugned is untenable and, therefore, set aside.

The writ-petition is remanded to the single Bench for disposal on merit by affording opportunity of hearing to the respective parties.

With these observations, the appeal being **528 of 2022** and the application **CAN 1 of 2022** are **disposed of**.

**(Harish Tandon, J)**

**(Rabindranath Samanta, J)**

