

20.09.2022.
Item No.13
Court No.550
Saswata

W.P.A. 12864 of 2022

**Supradeep Ghosh
Versus
State of West Bengal & Ors.**

Mr. Sibaji Kumar Das
Ms. Rupsa Sreemani

... For the petitioner

Mr. Susovan Sengupta
Mr. Subir Pal

...For the respondent nos. 1-4

Despite service, the respondent nos. 6 and 7 remain unrepresented.

The present writ application has been filed, *inter alia*, praying for a direction upon the respondent no.2 to hear out and dispose of the petitioner's representations dated 4th January 2022 and 16th December 2021. Mr. Das, learned advocate appearing in support of the writ application submits that the petitioner is a workman within the meaning of Section 2S of the Industrial Disputes Act, 1947 (hereinafter referred to as the "said Act") and as such, it is for the respondent no. 2 to take a decision on the petitioner's representations, which, *inter alia*, questions the alleged forcible termination of the petitioner by the respondent no.6. The petitioner complains that his representation has not been disposed of by the respondent no.2.

Mr. Das submits that the nomenclature is not of any consequence. Whether a particular employee falls within the definition of the workman as defined of Section 2(s) of the said Act has to be decided and considered on factual basis. Each matter may differ and it is for the respondent

no.2 to take a decision on the same. In support of his contention he places reliance on a judgment of the Hon'ble Supreme Court in the case of **Mr. C.Gupta versus Glaxosmithklin Pharmaceutical Limited** reported in **2007 (7) SCC 171**. Mr. Pal learned Advocate appearing for the respondent nos. 1 to 4 submits that the matter should be relegated to the respondent no.2 for him to take a decision in the matter. He further submits that since affidavits are not being used, the allegations made in the writ petition should be deemed to have been denied.

I have heard the advocates appearing for the respective parties. I am of the view that the instant application can be disposed of by directing the respondent no.2 to dispose of the petitioner's representations. I, thus, direct the respondent no.2 to take a decision on the representation made by the petitioner on 4th January 2022 within a period of 2 months from the date of communication of this order without being influenced by any of the observations made hereinabove. Such decision must be taken after giving an opportunity of hearing to the petitioner as also the respondent nos. 6 and 7.

Since, I have not called for any affidavits, the allegations made in the writ petition are deemed to have been denied by the respondents.

With the above observations, the writ petition being WPA 12864 of 2022 is disposed of.

All parties shall act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.)