

01.12.2022
Item No. 2.
Court No.6.
AB

**F.M.A. 1024 of 2022
With
I A CAN 1 of 2022**

**Asit Baran Guria
Vs
The State of West Bengal & Others**

Md. Sarwar Jahan,
Ms. K. Samanta ...for the Appellant.

Mr. Pinaki Dhole,
Mr. Avishek Prasad ...for the State.

Mr. Ritwik Pattanayak
....for the Respondent Nos.2 to 4.

By consent of the parties, the appeal and the application are taken up for hearing together.

A Judgment and Order dated May 4, 2022, whereby the appellant's writ petition being WPA No.6156 of 2022 was practically dismissed, is under challenge in this appeal.

The appellant/writ petitioner was appointed as Assistant Cashier by the respondent Cooperative Bank (in short "the Bank") in the year 1977. On or about January 24, 1998, a criminal case was initiated against him for alleged defalcation of funds. He was placed under suspension. Disciplinary proceedings were also initiated against him.

He filed W. P. No.10416 (W) of 1998 challenging the order of suspension. He failed to obtain any interim order. The writ petition was dismissed for

default on June 10, 2008. No steps were taken for restoration of the writ petition.

In the meantime, the disciplinary proceedings culminated in an order of dismissal of the appellant. This was on or about June 8, 1998.

In the usual course, the appellant would have retired on August 25, 2009.

The appellant was acquitted of the criminal proceedings on or about July 31, 2013.

The appellant, after his acquittal in the criminal trial, approached a learned Single Judge of this Court by filing W. P. No. 24917 (W) of 2017 contending that since he had been acquitted of the criminal charges, he should be paid his arrear salary and terminal benefits.

By an order dated September 11, 2018, such writ application of the appellant was practically dismissed. The said order reads as follows:

“Affidavit of service filed today be kept with the record.

The petitioner claims that since he has been acquitted in criminal proceedings filed against him for the defalcation of money of the Cooperative Societies and hence is entitled to terminal benefits.

The learned counsel appearing on behalf of the Cooperative Bank submits that the writ petitioner was proceeding against the Bank departmentally by the Society concerned and was dismissed from service prior to his superannuation in the 2009. The question of payment of terminal benefits, if not already paid, except the petitioner’s own contribution to Provident Fund, therefore, does not arise.

With the above observations, W. P. 24917(W) of 2017 stands disposed of.

There will be no order as to costs.”

An appeal preferred against the said order being MAT No.1740 of 2022 has been dismissed earlier today by us.

The appellant had filed another writ application being WPA No.6156 of 2022 saying that he had made a representation to the respondent Bank but the Bank is sitting tight over it. In effect, the appellant/writ petitioner complained of inaction on the part of the Bank. In the representation, the appellant had stated that he had received his contribution made to the Provident Fund. He claimed arrear salary and the other terminal benefits.

The learned Judge noted the order dated September 11, 2018, passed in the earlier writ petition and observed that it has been decided that the appellant is not entitled to any terminal benefits. Hence, the question cannot be reopened. Accordingly, the learned Judge dismissed the writ petition. Hence, this appeal.

We have heard learned Counsel for the parties. We see no infirmity in the order under appeal. Indeed, the appellant's claim for arrear salary or other terminal benefits was rejected by a learned Judge of this Court in the earlier writ petition. Such order has been affirmed in appeal. Hence, the learned Judge in

the present proceedings committed no error by rejecting the writ petition.

The appeal fails and the same is, accordingly, dismissed along with the connected application, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)