

D/L
Item No. 29
08.02.2022
KOLE

**CPAN 737 of 2021
In
MAT 2080 of 2017**

**Shanta Pramanik
-Vs.-
Joseph Lawrence Tobias & Ors.**

Mr. S. Saha,

...for the petitioner.

Mr. Md. M. Hossain,

...for the contemnor no. 1.

This contempt application has been filed for alleged violation of an order dated April 16, 2021, whereby MAT 2080 of 2017 was disposed of. The operative part of the order is quoted below:-

“We set aside impugned order as well as the inquiry report and all orders passed pursuant thereto in the disciplinary proceeding. The bank will cause immediate fresh inquiry in the matter on disciplinary proceeding from the stage of charge sheet, keeping in mind what we have pointed out in this order. Inquiry and all proceedings pursuant thereto must be completed within period eight weeks from date. For purpose of resumption of disciplinary proceeding from the stage of charge sheet, suspension order of appellant will be deemed to have revived, only for the duration of it. There will be no claim of arrear subsistence allowance or anything else, at this stage.

The appeal and applications are disposed of as above.”

Learned advocate appearing in support of the contempt application alleges that though in compliance of the said order dated April 16, 2021 a fresh disciplinary proceeding was initiated against the petitioner, he was not given subsistence allowance during the continuation of the said proceedings.

It has been submitted that since the petitioner was kept under suspension, as a consequence thereof, the respondents ought to have granted subsistence allowance to him.

Learned advocate appearing for the alleged contemnor no. 1 submits that after the order dated April 16, 2021 was passed, in compliance thereof a fresh disciplinary proceeding was initiated which ultimately resulted in the dismissal of the writ petitioner from service.

It does not appear that there was any direction upon the alleged contemnors to grant subsistence allowance to the petitioner. The learned advocate appearing for the petitioner may be right in submitting that since the petitioner was kept under suspension, the respondent authorities were not justified in not giving him subsistence allowance, but such denial does not amount to willful violation of the order dated April 16, 2021 since no such direction was given by the said order.

Therefore, we do not see that the alleged contemnors have willfully violated the order.

It has, however, been submitted by the learned advocate for the petitioner that the petitioner has challenged the order of dismissal before the appellate authority. It will be open for the petitioner to apply for his subsistence allowance before the competent authority and if it is found that the petitioner is otherwise entitled to subsistence allowance, the authority may consider ordering payment of the same in accordance with law.

The contempt petition, being No. CPAN 737 of 2021 is accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)