

58.  
18.11.2022  
S.D.

**CAN 1 of 2022**  
**in**  
**W.P.A. 12889 of 2010**

**Ms. Purnima Adhikary**  
**Vs.**  
**The State of West Bengal & Ors.**

Mr. Bijoy Adhikary  
Mrs. Sandhya Das Adhikary  
Mr. Ushananda Jana  
Ms. Susmita Adhikary  
..For the Applicant/Respondent No. 2

Mr. Manoj Chatterjee  
Ms. K. Iyer  
Mr. Arnab Mukherjee  
Mr. Souparno Pyne  
..For the Petitioner/respondents

**CAN 1 of 2022**

In this application being CAN 1 of 2022, the applicant/respondent no. 2 has prayed for disbursement of Rs.3,00,000/- along with accrued interest lying with the Registrar General, Appellate Side of this Hon'ble Court pursuant to an order passed by a Coordinate Bench on September 13, 2010. By the said order, a Coordinate Bench directed the entire amount of compensation awarded by the Learned 8<sup>th</sup> Industrial Tribunal, Kolkata to be deposited with the Registrar General and the same was directed to be kept in

a short term Fixed Deposit of any Nationalized Bank. The said Fixed Deposit was directed to be renewed from time to time until further orders passed by this Hon'ble Court.

The applicant/respondent no.2, who was a mother in the SOS Children's Villages, West Bengal, India was summarily dismissed from service by an office order dated November 22, 1997 passed by the Director, SOS Children's Villages, West Bengal. The ground for such summary dismissal is set out hereinafter:-

"You have surreptitiously and unauthorisedly taken out a child named "Pralay" who was under your care on 13.09.97. One case diary was filed in Bidhannagar Police Station on 18.09.97 and a F.I.R. on 26.09.97. Boy has not been returned yet".

Therefore, it was ordered that:-

"You are hereby summarily dismissed and your training terminated for gross indiscipline and dereliction of duty and serious offences damaging the prestige of SOS Children's Villages organization. This will be with effect from 22.11.1997".

Mr. Adhikary, learned counsel appearing on behalf of the applicant/respondent no. 2 in this application submits that after 24 years of the said case being instituted against the applicant/respondent no. 2, she has now been honourably discharged by the Additional District and Sessions Judge, 4<sup>th</sup> Court, Barasat, North 24-Parganas by a judgment and order dated September 18, 2021. By the said judgment and order

passed in appeal, the Additional District and Sessions Judge had set aside the order of conviction passed by learned A.C.J.M., (Additional Chief Judicial Magistrate), Bidhannagar and held that the applicant/respondent no. 2 was “not guilty” and she was “acquitted”.

Therefore, he submits that the charge on which the applicant/respondent no. 2 was summarily dismissed from service was not established against the petitioner in the criminal proceedings.

He submits that the applicant/respondent no. 2 is a senior citizen being more than 71 years of age and is living in dire financial conditions. The criminal charge in which the applicant/respondent no.2 was incriminated in for more than 24 years was based on a false allegation against her and the applicant/respondent no. 2 suffered severely due to same. Due to her advanced age and health condition, she prays for disbursement of Rs.3,00,000/- along with the interest lying with the Registrar General, Appellate Side of this Hon’ble Court by way of an application being CAN 1 of 2022.

Mr. Chatterjee, learned counsel appearing on behalf of the writ petitioner/respondent in this application submits that no disbursement can be made in favour of the applicant/respondent no. 2 at this stage without considering

the merits of the writ petition. Any prayer for disbursement can only be considered upon final hearing of the writ petition.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the only charge on which the applicant/respondent no. 2 was summarily dismissed was that she has surreptitiously and unauthorizedly taken out a child who was under her care on September 13, 1997. Since the boy had not returned, an FIR was lodged on September 26, 1996, based on which, criminal proceedings were initiated against the applicant/respondent no. 2.

Since the applicant/respondent no. 2 has now been honourably acquitted by the criminal Court, the very basis of the charge on which the applicant/respondent no. 2's job was terminated is non-existent today. The applicant has been honourably acquitted in appeal. This Court finds no reason to further withhold the disbursement of the amount lying with the Registrar General, Appellate Side of this Hon'ble Court. This Court feels that the applicant/respondent no. 2 has suffered enough for several years for no fault of her own.

In the circumstances, the Registrar General, Appellate Side is directed to disburse the amount of Rs.3,00,000/- along with accrued interest thereon within a period of two weeks

from date by way of Account Payee Cheque in favour of the applicant/respondent no. 2.

With the directions aforesaid, **CAN 1 of 2022** is **disposed of**.

Later:-

Learned counsel appearing on behalf of the writ petitioner/respondent submits that nothing further remains to be adjudicated in the writ petition. The writ petition has become infructuous since an order of disbursement is made in CAN 1 of 2022.

Considering the prayer of the learned counsel appearing on behalf of the writ petitioner/respondent, the writ petition being **W.P.A. 12889 of 2010** is **dismissed as not pressed**.

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

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

**(Lapita Banerji, J.)**

