

18.11.2022
sayandeep
Sl. No. 19
Ct. No. 05

WPA 18516 of 2022

Swaswati Halder Dutta
-Versus-
The State of West Bengal & Ors.

Mrs. Arundhati Banerjee
Mr. Kaustav Banerjee

..... for the petitioner

Mr. Suman Dey

....for the State

Mr. Sandip Kr. Bhattacharyya
Mr. Suman Basu

.....for the respondent No. 9

Mr. Debojyoti Goswami
Ms. Priyanka Das

.....for the respondent No. 11

The petitioner, being the estranged wife of the respondent No. 11, prays for a direction prohibiting the respondent authorities from disbursing the pensionary benefits to the respondent No. 11. The prayer has been made on account of the outstanding amount due to the petitioner from the respondent No. 11 by way of alimony. The petitioner maintains her son who is 18 years old. The petitioner says that her son suffers from anxiety disorder and epilepsy.

The respondent No. 11, through learned counsel, says that respondent has made payment of a total amount of Rs. 3,05,000/- from September, 2006 till date. The said amount has been stated in the supplementary affidavit filed by the respondent No. 11. Since there was a variance of the amounts claimed to have been received and paid by the petitioner and the

respondent No. 11 respectively, the Court requested the petitioner to hand up a chart of the claimed amount with a copy to the respondent No. 11.

Upon considering the respective submissions, it is clear that the controversy arises from an order passed by a learned Judge, as His Lordship then was, on 7th August, 2006 in two civil revisional applications wherein it was recorded that the amount of maintenance granted by the ACJM, Alipore has been enhanced to Rs. 3000/- from Rs. 1,800/-. The concerned paragraph goes on to record that in view of the change of position in the maintenance amount, the husband (respondent no. 11 in the present writ petition) should be directed to pay Rs. 2000/- per month by way of alimony. The paragraph ends with the observation that in coming to the amount of Rs. 2000/- by way of alimony, the Court has considered the amount of maintenance, i.e., 3000/-, which the husband is required to pay.

There is little doubt that the respondent No. 11 husband is seeking to confuse the Court by taking recourse to the different amounts mentioned in the order. The language of the order makes it clear that the Court considered the amounts of maintenance and alimony to be separate and distinct. The husband was directed to pay alimony of Rs. 2,000/- per month to the wife by way of the said order.

It is admitted that the respondent no. 11 husband has stopped paying the maintenance amount from 2018 onwards. Even if Rs. 3,05,000/- and Rs. 20,000/- paid by the husband are taken into account, a total amount of Rs. 4,66,000/- remains outstanding by way of alimony in pursuance of the order passed by the Court on 7th August, 2006.

Since the order passed by the Court also makes it clear that the husband is required to pay the arrear amount from 29.03.2004 till 06.08.2006, WPA 18516 of 2022 is allowed with a direction on the respondent No. 11 to make payment of Rs. 4,66,000/- in accordance with the chart prepared by the petitioner and circulated to the husband. The said amount shall be paid in four equal monthly installments beginning December, 2022 payable by the respondent No. 11 to the petitioner within first ten days of every month.

The prayer for withholding of the pension and retirement benefits of the respondent No. 11 has not been gone into in view of the above direction. The petitioner shall take necessary steps in terms of the pension account of the respondent No. 11 but only after receiving the amount of Rs. 4,66,000/- as directed.

(Moushumi Bhattacharya, J.)