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MAT/1327/2022
IA NO: CAN/1/2022
STATE BANK OF INDIA AND ORS.
VS
JIBAN KUMAR ROY

Mr. Subrata Kumar Sinha

..for the Appellants.

Mr. Koustav Bagchi,
Mr. Debayan Ghosh,
Ms. Priti Kar

..for the Respondent.

By this intra court appeal bank and their officials (respondents in the writ petition) have challenged the order of the learned Single Judge dated 26.07.2022 whereby WPA 16525 of 2022 filed by the sole respondent herein (writ petitioner) has been disposed of with certain directions.

The respondent had approached the writ court with the plea that he was an employee of the appellant/bank who had taken voluntary retirement on 30th April, 2006. In the writ petition the respondent had sought a direction to the appellants to disburse his claim relating to fitment on promotion since 1st day of December, 1981 to 31st day of March, 1998 along with the interest.

Learned counsel for the appellants has questioned the order of the learned Single Judge on the sole ground that the subject matter of the writ petition falls under

Group-VI whereas it was heard by the learned Single Judge who was having the determination to hear the cases of Group-IX. His submission is that the learned Single Judge was not having the determination to hear such a matter, hence, the order cannot be sustained.

Learned counsel for the respondent no.1 has not disputed that it is a service matter falling under Group-VI and it has been decided by the learned Single Judge who was having the determination to hear the cases under Group-IX. But he submits that the order of the learned Single Judge cannot be interfered with merely on technicalities and that no prejudice is caused to the appellant/bank if such an order is passed by the Judge having no determination.

We have heard the learned counsel for the parties.

In the present case admittedly the learned Single Judge did not have the determination as per roster to hear the present writ petition as the learned Single Judge was having the determination to hear Group-IX matter whereas the writ petition in question was under Group-VI.

In SLP (Civil) No.CC 14694-14695 of 2010 in the matter of *State of U.P. & Others v. Neeraj Chaubey & Ors.* by order dated 16.09.2010 Hon'ble Supreme Court after taking note of the judgment on the point has held that:

“The High Court had taken note of various

judgments of this Court including *State of Maharashtra vs. Narayan*, AIR 1982 SC 1198; *Inder Mani vs. Matheshwari Prasad*, (1996) 6 SCC 587; *State of Rajasthan vs. Prakash Chand & Ors.*, (1998) 1 SCC 1, *R. Rathinam vs. State by DSP, District Crime Branch, Madurai District, Madurai & Anr.*, (2000) 2 SCC 391 and *Jasbir Singh vs. State of Punjab*, (2006) 8 SCC 294 and various judgments of High Courts and came to the conclusion that the Chief Justice is the master of roster. The Chief Justice has full power, authority and jurisdiction in the matter of allocation of business of the High Court which flows not only from the provisions contained in sub-section (3) of Section 51 of the States Reorganisation Act, 1956, but inheres in him in the very nature of things. The Chief Justice enjoys a special status and he alone can assign work to a Judge sitting alone and to the Judges sitting in Division Bench or Full Bench. He has jurisdiction to decide which case will be heard by which Bench. If the Judges were free to choose their jurisdiction or any choice was given to them to do whatever case they may like to hear and decide, the machinery of the court would collapse and the judicial work of the court would cease by generation of internal strife on account of hankering for a particular jurisdiction or a particular case. The Court held that a Judge or a Bench of Judges can assume jurisdiction in a case pending in the High Court only if the case is allotted to him or them by the Chief Justice. Strict adherence of this procedure is essential for maintaining judicial discipline and proper functioning of the court. No departure from this procedure is permissible.”

Similar issue had come up before the Division Bench of this Court in the matter of *Santosh Kumar Singh & Ors. v. Sanjiv Kumar Singh & Ors.* reported in 2010(1) CHN (CAL) 657 wherein a matter falling under Group-I(h) was heard by the Hon’ble Judge having determination of Group-IX. The Division Bench of this Court considering the issue of the legality and validity of such an order had held that:

“13. As regards the other ground particularly on which the learned Trial Judge has passed the order, impugned, i.e., the absence of a valid quarry permit under the West Bengal Mines and Minerals Rules, 2002, in our opinion, Mr. Chakraborty is justified in contending that in that event, the writ application should be categorized as one under Group 1(h) and in that case, the learned Trial Judge lacked inherent jurisdiction to entertain the writ application. It appears from the record that direction was given upon the police only because of the finding recorded by the learned Trial Judge that the appellant was continuing with the brick field without having any valid quarry permit under the relevant Rules. Therefore, the jurisdiction was exercised for violation of the West Bengal Mines and Minerals Rules, 2002. It is now settled law that there is a particular provision in the Writ Rules of this Court enabling a particular learned Judge with the determination to take up a particular kind of matter, by invoking residuary jurisdiction, the same cannot be entertained by the learned Judge having jurisdiction to entertain residuary matter. The residuary matters are those matters for which, there is no provisions in the Writ Rules and over which no determination has been given to any other learned Judge.

14. We, thus, find that the learned Single Judge should not have entertained the writ application, if His Lordship intended to exercise jurisdiction for noncompliance of the provisions of West Bengal Mines and Minerals Rules, 2002. Moreover, we also find substance in the contention of Mr. Chakraborty that simply by relying upon a report given by a particular officer of the State Government a Court without giving opportunity to the person affected by such report should not dispose of the writ application. On that ground also, the order impugned cannot be supported.

15. We, thus, find that in the present case, the order impugned was passed by the learned Judge having no determination to take up the matter and on that ground alone, we set aside the order without entering into the merit of the writ application as to whether the appellant had a valid quarry permit or not.

16. We, thus, set aside the order impugned on the above ground and remand the matter to the learned Judge having determination to take up matters under Group 1(h) of the Writ Rules.”

Same issue again came up recently in MAT 31 of 2022 in the matter of *Biswajit Saha & Others v. Union of India & Others* wherein the Division Bench of this Court by order dated 27.01.2022 in a case where learned Single Judge having determination to hear Group-I matter had decided the petition falling under Group-IX, held that:

“In our considered view, this matter should have been classified as a “Group-IX” matter, and not “Group-I” matter. It is not in dispute that the learned Judge, who heard and disposed of the writ petition, did not have determination to hear “Group-IX” matters. It is fairly well settled that an order passed by a learned Judge in a matter, which the learned Judge did not have determination to hear, would be nonest in the eye of law. This flows from the fact that the Chief Justice of High Court is the Master of the roster and has the exclusive power and prerogative to assign matters to particular Judges. It is from such assignment that a particular Judge derives jurisdiction to hear a particular matter.

In view of the fact, we are of the opinion that the writ petition comes under “Group-IX”. We are constrained to set aside the order under appeal only on the ground of lack of determination of the learned Judge to hear and dispose of the matter.”

Thus, in view of the above settled legal issue, we hold that the impugned order passed by the learned Single Judge having no determination to hear such matter cannot be sustained, which is, accordingly, set aside. The matter is remanded back for fresh consideration by the Hon'ble Judge having determination to hear such matters.

The appeal is accordingly disposed of.

(Prakash Shrivastava, C.J.)

(Ananya Bandyopadhyay, J.)

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