

04.04.2023

W.P.A 961 of 2018

Sanatan Gharai
vs.
The V.C. Jadavpur University & Ors.

Mr. Sanjay Mukherjee
..For the petitioner.
Mr. Soumya Majumder
Ms. Sanjukta Dutta
..For the Jadavpur University.

Let the affidavit of service filed by the petitioner be kept with the record.

Despite service, respondent no. 5 is not represented.

In this writ petition the petitioner has challenged an order dated June 28, 2017, issued by respondent no. 3. The operative part of the said order is quoted below:-

“Dear Sir,

On the basis of the report of the One Man Commission considering the letter of Smt. Mamoni Ghorai, wife of Sanatan Ghorai, the Executive Committee has resolved in its meeting held on June 20, 2017:

“In view of the fact that Mamoni Ghorai, wife of Sanatan Ghorai, has been pushed to destitution being abandoned by her husband, Sri Sanatan Ghorai, the Executive Committee resolved that fifty percent from net monthly salary of Sri Ghorai be deducted and remitted to Smt. Mamoni Ghorai from the salary of June 2017 as a relief and sustenance on humanitarian ground if not otherwise restricted by the order of any Court of Law.

This is for your information.”

Mr. Mukherjee, learned advocate appearing for the petitioner submits that the marriage between the petitioner and respondent no. 5 was dissolved by a decree of divorce on December 22, 2016 by the court of the learned District Judge, 5th Court at Alipore.

He submits that in connection with the said matrimonial proceeding, an order of maintenance was passed in favour of their minor daughter, but no maintenance was granted in favour of respondent no. 5.

In terms of the order passed by this Court on February 17, 2023, respondent nos. 1 and 2 appear and produce some documents to suggest that respondent no. 5 has been employed under respondent no. 3 as a sweeper with a monthly remuneration of Rs. 12, 000/- per month. The service has been extended from time to time.

The learned advocate appearing for respondent nos. 1 and 2 submits that last extension of service of respondent no. 5 was till March 31, 2023.

Considering the aforesaid factual backdrop, I am of the view that the order impugned in this writ petition dated June 28, 2017 can not be sustained. The respondent no. 5 has an independent source of income and as submitted by Mr. Mukherjee, learned advocate for the petitioner, that petitioner is also working as a Group D staff under respondent no. 3.

In that view of the matter, it is not at all necessary to consider whether order dated June 28, 2017 was without jurisdiction or not. In any event, the order dated June 28, 2017, cannot be sustained and the same is accordingly set aside.

It has been submitted by Mr. Mukherjee, learned advocate appearing for the petitioner that the petitioner is

entitled to refund of the money already deducted from his salary.

I find that the order impugned was stayed by a Co-ordinate Bench of this Court on March 1, 2019.

Having regard to the fact that respondent no. 5 earns a meager salary of Rs. 12,000/- per month, the recovery of the money from the salary of respondent no. 5 will be too onerous for her. In that view of the matter, I am not inclined to pass any order for refund of the money.

Accordingly, W.P.A 961 of 2018 stands disposed of.

(Kausik Chanda, J.)