

Court No. 22
15.9.2023
(Item No. 3)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
C.P.A.N. 300 of 2023
in
W.P.A. 15836 of 2022

Bipadtaran Patra
VS
Pijush Kanti Bera

Mr. Kamalesh Bhattacharya
Mr. Aninda Bhattacharya
.... For the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee
..... for the alleged contemnor

This is an application for contempt arising from an order dated November 14, 2022.

The contempt proceeding was heard from time to time and several orders were passed.

Pursuant to the direction of this Court the alleged contemnor has filed its compliance report in the form of an affidavit affirmed on June 22, 2023. The report is appended to the said affidavit. The relevant stand of the alleged contemnor reflected in the said report to defend this contempt proceeding are quoted below:

“During processing of the said pension file it has come to the notice of this office that on the basis of complaint of the then District Inspector of Schools (SE), Bankura vide memo no. 4148/S dated 19.10.2012 an FIR bearing No. 48/12 dated 01.11.2012 was lodged against him at Raipur Police Station, Raipur, Bankura and accordingly Raipur Police Station started a case bearing Case

No. GR-708/2012, State -Vs- Bipad Taran Patra before the Ld. A.C.J.M., Khatra Court, Bankura and the case was pending till then.

Para 19(5) under CHAPTER V of the West Bengal Recognized Non Government Educational Institution Employees (Death-cum-Retirement Benefit) Scheme, 1981 vide MEMORANDUM NO. 136-Edn (B) dated 15.05.1985 issued by the Education Department, Govt. of West Bengal vividly state that – “Final pension, gratuity etc, shall not be sanctioned to an employee against whom departmental/judicial proceedings have been instituted/continued. In case of misconduct of the pensioner, the pension sanctioning authority has the power to withhold pension or reduce the pension.

Where any departmental or judicial proceeding is instituted or where a departmental proceeding is continued against an employee who has retired on attaining the age of compulsory retirement or otherwise, he shall be paid during the period commencing from the date of his retirement to the date on which, upon conclusion of such proceeding final orders are passed, a provisional pension not exceeding the maximum pension which would have been admissible on the basis of his qualifying service up to the date of retirement, or if he was under suspension on the date of retirement up to the date immediately preceding the date on which he was placed on suspension, but no gratuity or death-cum-retirement gratuity shall be paid to him until the conclusion of such proceeding and the issue of final orders thereon....”

It appears from the said stand of the alleged contemnor that, the relevant criminal proceeding is

pending and the trial is yet to be completed. The charges in the said criminal proceeding are touched with the employment of the petitioner. The law is well settled in this regard that the pensionary benefit cannot be released in favour of the petitioner in such situation save and except the provisional pension, if he applies for.

In view of the above, it appears to this Court that, within the domain and jurisdiction of the contempt proceeding, the alleged contemnor has complied with the direction of this Court and no charge of contempt stands as alleged in the contempt application.

Accordingly, the contempt proceeding being **CPAN 300 of 2023** stands dropped.

The application stands accordingly disposed of.

(Aniruddha Roy, J.)