

03.10.2023

Item No.**07**

Ct. No.5

Dd

**WP.ST 100 of 2019
With
IA NO: CAN 2 of 2023**

**Sanat Kumar Pachal & Ors.
Vs.
The State of West Bengal & ors.**

Mr. Ekramul Bari,
Mr. Siddhartha Sankar Mandal
...for the writ petitioners

Mr. Tapan Kr. Mukherjee, Sr. Advocate
Mr. Pinaki Dhole,
Mr. Somnath Naskar,
...for the State respondents

In Re : IA NO: CAN 2 of 2023

CAN 2 of 2023 is an application for restoration of the writ petition.

For the ends of justice and on the basis of the pleadings in the application for restoration, we recall the order of dismissal dated August 23, 2023 and restore WP.ST 100 of 2019 to its file and number.

CAN 2 of 2023 is **allowed**.

In Re : WP.ST 100 of 2019

The writ petition is directed against an order dated September 7, 2018 passed by the West Bengal Administrative Tribunal.

Writ petitioners approached the Tribunal initially by way of O.A.415 of 2005.

Such Original Application being O.A.415 of 2005 was disposed of by an order dated April 6, 2005 after holding that the Tribunal was without jurisdiction.

The parties accepted the order dated April 6, 2005 passed in O.A.415 of 2005. The writ petitioners approached the High Court before the learned Single Judge under Article 226 of the Constitution of India, ventilating same grievances as that of O.A.415 of 2005.

The writ petition filed by the writ petitioners being W.P. No.14596(W) of 2005 along with other writ petitions, were disposed of by order dated January 5, 2011 by which, the High Court held that, the Tribunal was clothed with the jurisdiction to hear and decide on the grievances of the writ petitioners.

The writ petition was transferred to the Tribunal for decision. The writ petition was numbered as T.A.02 of 2018 before the Tribunal.

By the impugned order, the Tribunal held that, since the order dated April 6, 2005 of the Tribunal passed in O.A.415 of 2005 was not challenged by the parties, the issue with regard to jurisdiction was *res judicata* between the parties.

With respect, we are unable to accept such a view. Subsequent to the order dated April 6, 2005, passed in O.A.415 of 2005, approach was made to the

High Court. High Court, by an order dated January 5, 2011 found that the Tribunal was with the requisite jurisdiction. The order dated January 5, 2011 is therefore, binding upon the parties. The parties cannot claim that the issue as to the jurisdiction stood decided by the order dated June 10, 2005 passed by the Tribunal in O.A.415 of 2005. They are bound by the order dated January 5, 2011 of the High Court.

Consequently, the impugned order dated September 7, 2018 passed in T.A.02 of 2018 is set aside. T.A.02 of 2018 is remanded to the Tribunal for decision on merits.

The Tribunal is requested to hear and dispose of T.A.02 of 2018 as expeditiously as possible and preferably within six months from the date of communication of this order.

WP.ST 100 of 2019 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)