

**WP.CT. 127 of 2023**

(Pritam Majudmer Vs. Union of India & Ors.)

**Mr. Phatick Chandra Das**

**..... For the petitioner**

**Mr. Souvik Nandy**

**Mr. Shaounak Ghosh**

**..... For the respondents**

The writ petitioner filed an original application being OA No. 350/675/2022 (hereinafter referred to as the first OA) before the learned tribunal challenging, *inter alia*, an order of transfer being no. JTR/60/DOO/PER/GB/2022 dated 11<sup>th</sup> April, 2022 and a release order being no. A/22013/1/2022-HQ/GB issued on the same date, i.e. 11<sup>th</sup> April, 2022. In the first OA, initially an interim order was passed on 18<sup>th</sup> April, 2022 observing, *inter alia*, that '*let the applicant be not released, if not already released till the next date of listing, and if released no coercive action be taken against him*'. The first OA was ultimately disposed of by an order dated 5<sup>th</sup> May, 2022 with a direction upon the competent authority to consider the writ petitioner's representation dated 3<sup>rd</sup> December, 2021 in the light of the DOPT OM dated 30<sup>th</sup> September, 2019. Pursuant to such direction the respondent no. 3 herein passed an order on 13<sup>th</sup> June, 2022. The said order was again challenged by the writ petitioner in an original application being OA no. 350/1207/2022 (hereinafter referred to as the second

OA). In the same, an order was passed on 9<sup>th</sup> September, 2022 directing the respondents to file their affidavits, taking note of all the points incorporated in paragraph 9 of the order, by four weeks, rejoinder, if any, be filed by two weeks thereafter and it was also observed that *'till such time, the applicant's transfer shall remain stayed'*. The second OA is still pending. Alleging violation of the order dated 9<sup>th</sup> September, 2022, the writ petitioner filed an application for contempt in which a compliance report was filed on behalf of the respondents and the contempt application was finally heard and order was reserved on 24<sup>th</sup> January, 2023 and such order is still awaited.

Mr. Das, learned advocate appearing for the applicant/writ petitioner herein submits that the second OA has not been finally disposed of by the learned tribunal and final order has also not been passed in the contempt application till date. The respondents are very vindictive against the petitioner. In spite of full knowledge of the interim order dated 9<sup>th</sup> September, 2022, they have not complied with the same. Taking advantage of long pendency of the second OA and non-disposal of the contempt application, the writ petitioner has not been allowed to join the post from which he has been transferred and his salary has been withheld. In view thereof, the petitioner is suffering unsurmountable inconvenience. In the said conspectus, it is incumbent

upon this Court to call for the records and to finally decide the second OA.

Mr. Nandy, learned advocate appearing for the respondents denies and disputes the contention of the petitioner and submits that in terms of the order dated 9<sup>th</sup> September, 2022 though a reply has already been filed on behalf of the respondents, no copy of any rejoinder has yet been served upon the respondents till date. The petitioner has also not mentioned the matter for early hearing with notice to the respondents before the learned tribunal and for such pendency of the original application, the respondents cannot be blamed.

He submits that in the contempt application a compliance report has already been filed by the respondents and the same has been finally heard by the learned tribunal on 24<sup>th</sup> January, 2023 and order has been reserved.

The writ petition has been preferred primarily praying for a direction upon the learned tribunal either to dispose of the original application within a very short period of time or in an alternative way, this Court may call for the original application and dispose of the same along with the contempt application.

Records reveal that the petitioner was transferred to New Delhi and released from the post of JWM at Kolkata by two orders passed on the same date, i.e., 11<sup>th</sup> April, 2022. There exists a serious dispute as to whether the

release order was at all served upon the petitioner. A perusal of the order dated 9<sup>th</sup> September, 2022 reveals that an interim order was passed to the effect that the petitioner's transfer shall remain stayed. In spite of such order the petitioner has not been allowed to join the post from which he has been transferred and his salary has been withheld on and from the month of April, 2022 till date. The second OA is still pending and no final order has been passed in the contempt application though such order was reserved way back on 24<sup>th</sup> January, 2023. We appreciate the inconvenience as faced by the petitioner due to non-disposal of the second OA and the contempt application. The petitioner has availed the remedies as provided under the concerned statute and is entitled to know the fate of such litigation.

Judicial discipline requires promptness in delivery of judgments. Delay deprives the aggrieved party of the opportunity to seek further judicial redress in the next tier of judicial scrutiny. The delay in delivery of judgments has been observed to be a violation of Article 21 of the Constitution of India. [See the judgment delivered in the case of *Anil Rai v. State of Bihar*, reported in 2001 (7) SCC 318].

In view thereof, we direct the writ petitioner to file the rejoinder to the original application, if not filed till date, and serve copies of the same upon all the respondents within a period of two weeks from date and the learned

tribunal shall finally decide the original application, as expeditiously as possible, preferably within a period of four weeks thereafter, without granting any unnecessary adjournment to either of the parties.

We further direct the learned tribunal to pass the final order in the contempt application, as expeditiously as possible, preferably within a period of four weeks from the date of communication of this order.

Considering the peculiar facts and circumstances of the case, we direct that no coercive step shall be taken against the petitioner by the respondents till the final disposal of the second OA.

With the above observations and directions, the writ petition being WP.CT. 127 of 2023 is disposed of.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Partha Sarathi Chatterjee, J.)**

**(Tapabrata Chakraborty, J.)**