

23.11.2023
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disposed of

MAT 2251 of 2023
with
CAN 1 of 2023

Debasish Paine, Teacher-in-Charge, Goaltore High
School (Secondary Education)
Vs.
Smt. Sabitri Mahata & Anr.

Mr. Srijan Nayak
Ms. Aiswarjya Gupta
Mr. Soumyajit Ghosal
.... for the appellant

Mr. Lalratan Mondal
Mr. Dilip Kumar Sadhu
..... for the respondent no. 1

1. Let affidavit-of-service filed in Court be kept on record.
2. The appeal is directed against order dated 16/10/2023 whereby the learned Single Judge directed not to disburse salary of the appellant, that is, the teacher in charge of the school until further orders.
3. Appellant submits while on the one hand his salary had been stopped and on the other hand on the same issue he has been called upon to show cause why contempt Rule shall not be drawn up against him. He contends penalty cannot be imposed

upon him prior to his submission of explanation to the showcause notice issued by the learned Single Judge.

4. Learned Counsel for the petitioner/respondent no. 1 submits learned Single Judge found that two appointment letters i.e. one dated 5th October, 2023 and another dated 13th October, 2023 had been issued by the appellant in order to overreach the Court.

5. In reply, learned Counsel for the appellant contends that the subsequent letter dated 13th October, 2023 is an acknowledgement of the petitioner/respondent joining the post.

6. We have considered the impugned order in the light of the aforesaid submissions at the Bar. Initially, a letter of appointment dated 5th October, 2023 was handed over to petitioner/respondent in court. Subsequently, on 16th October, 2023 another letter dated 13th October, 2023 was produced which the Learned Single Judge treated as a subsequent appointment letter. Referring to letter dated 13.10.23 at page 17 of the stay application, appellant claimed it is an acknowledgement of the petitioner joining the post and not an appointment letter. On the other hand, petitioner/ respondent produces an

appointment letter signed by the appellant on 13.10.23 and submits the said document was produced by the Learned Single Judge.

7. Contents of the letter dated 13.10.23 annexed at page 17 of the stay application shows it is an acknowledgement of the petitioner/ respondent joining the post. The other document produced before us by the petitioner/respondent is substantially same as the appointment letter dated 5.10.23 annexed at page 12 of the stay application. Both bear the same date at the top, that is 5.10.23, but the letter produced by the petitioner/ respondent appears to have been signed by the appellant on 13.10.23. Be that as it may, petitioner/ respondent no.1 was permitted to join the post on 13.10.23 and we are informed that the appointment of the petitioner/respondent no. 1 has already been approved by the District Inspector of Schools.

8. While issuing a show cause upon the appellant to explain why contempt proceedings would not be drawn up against him the learned Single Judge had stopped his salary on the ground that he had overreached the Court. This appears to be a premature decision even before the appellant had replied to the show cause notice. It appears all

necessary steps in the matter has already been taken by the appellant and the appointment of the petitioner/respondent no. 1 has been approved by the D.I. of schools.

9. Under such circumstances, we are of the opinion the direction not to disburse salary to the appellant is unsustainable and is set aside. The appeal is allowed to the aforesaid extent.

10. The appeal and the connected application being CAN 1 of 2023 are accordingly disposed of.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)