

DL-13

21.04.2026
Court No.37
[Bench ID-266046]
(AD)

In the High Court at Calcutta
Special Civil Jurisdiction
(Contempt Application)
Appellate Side

CPAN 503 of 2025

Rinku Maji
Vs.
Smt. Smita Pandey, The Municipal Commissioner,
Kolkata Municipal Corporation
in
FMA 200 of 2024
The Kolkata Municipal Corporation & Ors.
Vs.
Rinku Majhi

Mr. Raghunath Chakraborty, Advocate
Ms. Amrita De, Advocate
... for the petitioner

Mr. Alok Kumar Ghosh, Advocate
Mr. Arijit Dey, Advocate
... for the alleged contemnor-
Kolkata Municipal Corporation

1. Petitioner complains of violation of the judgment and order dated December 20, 2024.
2. By the judgment and order dated December 20, 2024, we affirmed the judgment and order dated August 21, 2023 passed by the learned Single Judge in a writ petition. We, however, granted 6% interest on the arrears.
3. Relevant portion of the order of the learned Single Judge dated August 21, 2023 is as follows:

“However, taking into consideration the fact, the petitioner was on regular service with effect from 1st April, 1985 and it has also been found by this court that acceptance of resignation of the petitioner vide letter dated 30th May, 2009 is

erroneous based on the settled principles of law as enunciated by the Apex Court the concerned authority of KMC is directed to release pensionary benefits, gratuity along with all other admissible benefits to the petitioner upon treating the service of the petitioner with effect from 1st April, 1985 till the date of superannuation within a period of eight weeks from the date of communication of this order on compliance of necessary formalities.”

4. Relevant portion of the judgment and order dated December 20, 2024 of which contempt is complained of is as follows:

“35. In the light of discussions made hereinbefore, we find no reason to interfere with the findings of the learned Single Judge in the impugned judgment and order. We however modify the impugned judgment and order to the effect that appellants shall also pay interest on the due entitlements of the writ petitioner at the rate of 6% per annum; from the date, such dues became due till final payment thereof.”

5. Special Leave petition was carried against the judgment and order dated December 20, 2024 which was dismissed on December 15, 2025.
6. Three claims are before us on the count of violation of our judgment and order dated December 20, 2024.
7. The first claim is on account of leave encashment.

8. In the facts and circumstances of the present case, the writ petitioner was shown as resigned from service pursuant to her letter dated February 19, 2009. Thereafter, the writ petitioner superannuated with effect from November 30, 2022. Both the learned Single Judge as also us in the Division Bench found that, the resignation dated February 19, 2009 was not proper and, therefore, we granted relief to the writ petitioner.
9. Fact remains that for the period from February 19, 2009 till the date of superannuation on November 30, 2022, the petitioner did not discharge any duties.
10. Leave Encashment Rules postulates accumulation of leave for work done and attendance registered. Consequent upon the writ petitioner not discharging any duties for the period as noted above, we are not minded to allow the claim of the leave encashment.
11. Stand of the respondents are also the same.
12. Stand of the respondents, therefore, being a plausible one and we are not minded to invoke jurisdiction under the Contempt of Courts Act, 1971 or under Article 215 of the Constitution of India on such claim.
13. It is contended on behalf of the writ petitioner that, refusal of leave encashment will tantamount to rewriting or modifying the judgment and order

dated December 20, 2024.

14. With respect, we are unable to accept such contention inasmuch as we are neither modifying nor rewriting such judgment and order. We are of the view that, the stand of the respondents on the issue of calculation of leave encashment being plausible, the respondents cannot be hauled up for contempt in the jurisdiction under the Contempt of Courts Act, 1971 and Article 215 of the Constitution of India.
15. The other two claims are on account of commutation value and arrear pension. They are interlinked.
16. It is the contention of the respondents that, since the writ petitioner did not apply for commutation within a period of one year from her date of superannuation, she is required to appear before the Medical Board which the writ petitioner did not do.
17. It would be open to the writ petitioner to approach the authorities for the purpose of commutation of the arrear pension by complying with the regulations with regard thereto. We clarify that the writ petitioner needs to appear before the Medical Board for the purpose of commutation of her arrear pension. If she does so, her application for commutation will be considered in accordance with law.

18. The second and the third claims being arrear pension and commutation of the pension being interconnected, the stand taken by the writ petitioner with regard to the commutation will govern the arrear pension. Once the decision on the commuted value of the pension is arrived at, subject to compliance of the formalities by the writ petitioner, the arrear pension will be disbursed within four weeks therefrom.
19. With the aforesaid observations, **CPAN 503 of 2025** in **FMA 200 of 2024** is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)