

13.09.2024
rpan/07

WPST 13 of 2024
Dr. Anirban Ganguly
– *Versus* –
The State of West Bengal & Others

Mr. D. N. Ray,
Mr. Sankha Ghosh,
Mr. M. N. Roy,
Mr. Biswarup Nandy,
Mr. R. Shah

... for the Petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. S. Roy

... for the State/Respondents.

As prayed for, liberty is granted to the petitioner to implead the O.S.D. & Special Secretary, Health & Family Welfare Department to the Government of West Bengal. Learned advocate-on-record of the petitioner is directed to effect make necessary correction in the cause title of the writ petition.

The present writ petition was preferred challenging an order dated 13th December, 2023 passed by the learned Tribunal in an original application (in short, OA), being OA 785 of 2023. By the said order the learned Tribunal admitted the OA and directed the parties to exchange their reply and rejoinder but did not grant any interim order, save and except, that any action taken by the respondents shall abide by the outcome of the application.

Mr. Ray, learned advocate appearing for the petitioner submits that on 9th February, 2024, this Court passed an interim order staying the operation of the

impugned order dated 24th November, 2023 passed by the respondent no.3 by which the petitioner's prayer for resignation from service and issuance of release order were turned down. Pursuant to an order dated 26th August, 2020 passed in a writ petition preferred by the petitioner earlier, the petitioner joined the post of Assistant Professor at AIIMS, Deoghar and is continuing in the said post till date. Unless the petitioner's resignation is accepted and he is released, he would not be permanently appointed at AIIMS, Deoghar.

He contends that in an identical matter, one Dr. Santanu Suba was formally released by a memo dated 7th June, 2024 issued by the added respondent no.5 pursuant to a direction passed by co-ordinate Bench of this Court to consider the claim of the writ petitioner therein.

Drawing our attention to the averments made in the supplementary affidavit, as filed by the petitioner today, Mr. Ray submits that the petitioner is ready and willing to refund all dues, if any to the authority of the NRS Medical College & Hospital, Kolkata and he would not claim any pension and gratuity from the State Government, save and except, Provident Fund and accumulated savings fund of Group Insurance. Let the supplementary affidavit, as filed, be kept on record.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, however, denies and disputes the contentions of the petitioner and

submits that the petitioner is not similarly situated with Dr. Suba.

However, no contemporaneous materials have been brought on record by the State respondents in support of their contention that the petitioner is standing on a different footing.

It appears that pursuant to a direction by a co-ordinate Bench of this Court in a writ petition preferred by Dr. Santanu Suba, the added respondent no. 5 herein has considered and accepted the prayer of resignation of Dr. Suba.

In such facts and circumstances, we are of the opinion that no useful purpose would be served by keeping the writ petition as well as the OA 785 of 2023 pending any further.

Accordingly, both the writ petition and the OA, pending before the learned Tribunal, are disposed of directing the added respondent no.5 to consider the petitioner's representations dated 10th January, 2023 and 22nd July, 2024, as annexed at page 46 of the writ petition and at page 4 of the supplementary affidavit respectively and to take a decision towards acceptance of resignation and release of the petitioner and communicate the same to the petitioner within a period of four weeks from the date of communication of this order along with the copies of the representations dated 10th January, 2023 and 22nd July, 2024.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)