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14.05.2024
Court No. 35
D.Hira

**WPA 3462 of 2018
With
CAN 2 of 2024**

**M/s. State Fisheries Development Corporation
Limited
Vs.
Regional Privident Commissioner-II & Ors.**

**Ms. Santi Das,
Mr. R.D. Bhowmick.
... for the petitioner**

**Mr. Shiv Chandra Prasad.
... for the P.F. Authorities**

The application being CAN 2 of 2024 is being moved by Ms. Santi Das, learned counsel on behalf of the applicant/writ petitioner in WPA 3462 of 2018.

The same is for an order to recall this Court's earlier order dated 9th January, 2024, for dismissal for default of writ petition, being WPA 3462 of 2018, and for restoration of the said case.

She submits that the case has been dismissed for default by this Court vide order dated 9th January, 2024, though the reasons thereof should be attributable to the communication gap occurred on the said particular date between the clerk of the learned lawyer and the learned lawyer.

As a result, the writ petitioner/applicant could not be represented before the Court on the particular date in due time. Hence, the matter was dismissed for default.

Ms. Das, learned counsel elaborated that the writ petitioner in WPA 3462 of 2018 has challenged the illegal

assessment and demand of damages and interest over the provident fund contribution. However, as a matter of fact, Ms. Das, learned counsel submits that the main matter is now pending before the Tribunal in an appeal being Appeal No. 36 of 2019, for determination.

Thus, she submits that the writ petitioner in WPA 3462 of 2018 has a fair possibility to succeed in the same and the matter should be restored in its original file and number, as the petitioner is desirous to contest in the same.

Ms. Das, learned counsel has also insisted that the interim order earlier granted by this Court vide order dated February 16, 2018 may be restored.

Mr. Prasad, learned counsel is appearing for the Provident Fund Authorities. So far as the restoration of the writ petition is concerned, he does not raise any serious objection but as against restoration of the interim order as was prevalent earlier, he does so.

Mr. Prasad, learned counsel says that the interim order cannot be automatically restored with restoration of the writ petition. He seeks that the provident fund authorities may be given opportunity for fresh hearing in this matter, before the interim order could be restored.

Heard the submissions and perused the materials available on record. The grounds urged in CAN 2 of 2024 for default of the learned conducting advocate to appear before the Court on the particular date for dismissal of the writ petition appears to be sufficient.

Therefore, the order of this Court dated January 9, 2024 is recalled.

The writ petition being WPA 3462 of 2018 be restored in its original file and number.

Since the writ petition pertains to the grievance of the petitioner regarding unreasonable and illegal imposition damages and interest by the respondent authority, unless there is an order of stay as was granted by this Court earlier the cause of action would be frustrated.

Considering the same this Court finds it proper to restore the interim order in the writ petition as was granted by the Court earlier, vide order dated February 16, 2018. The interim order shall subsist till disposal of this writ petition.

Let the matter appear under the heading “Fixed Matters” in the monthly list of June, 2024.

CAN 1 of 2023 is pending, which is an application filed by the respondent authorities with the prayer for vacating of the interim order as above. Let the same be kept with the record and be taken up at the time of final hearing along with the merits.

(Rai Chattopadhyay, J.)