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25.04.2024
Aritra

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 8315 of 2024

Subhankar Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Amitabho Ghosh,
Ms. Nabamita Chatterjee,
Ms. Arpita Dhar
...for the petitioner

Mr. K.J. Yusuf,
Mr. Balarko Sen
...for the State

1. Learned counsel for the petitioner submits that the petitioner's mother had lodged a complaint against certain employees of the office of the Superintendent of Police in the area. As a counter-blast, allegations of similar nature were made against the petitioner's mother and, subsequently, against the petitioner. The petitioner and his mother were arrested, but were granted bail in respect of the separate cases lodged against them.
2. Charge sheet has been filed in the meantime.
3. The petitioner's bank account, which is also the salary account of the petitioner, was freezed by the respondent-Bank. It is argued that no proceedings have been taken out under Section 102 of the Code

of Criminal Procedure and, as such, the freezing was *de hors* the law.

4. Challenging the same, the petitioner has preferred the instant writ petition. During pendency of the writ petition, the account has been defreezed. However, during the interregnum, salary of the petitioner from October , 2023 to March, 2024 was not deposited in the account in view of the same being freezed and went back to the treasury.

5. The petitioner, it is submitted, is in employment with the office of the District Magistrate. Despite repeated representations, it is submitted that the salary has not been given to the petitioner.

6. Learned counsel for the State submits that there were allegations and pending cases against the petitioner and his mother and there was an allegation of defalcation of certain amounts on the false promise of giving employment.

7. As such, the account was initially freezed but subsequently has been defreezed. It is submitted that the freezing was done for the sake of investigation.

8. Learned counsel for the State also points out that in the meantime, show cause has been issued to the petitioner as to the absence of the petitioner for a considerable period from his office.

9. However, learned counsel for the State does not have instruction as to whether the said show cause has culminated in a disciplinary proceeding. It is the specific case of the petitioner that no disciplinary proceeding has been initiated, although the petitioner has given a reply to the show cause notice.

10. As the matter stands now, the account of the petitioner has been defreezed, thereby rendering the cause of action on such count infructuous. However, the fact remains that the salary of the petitioner from October, 2023 to March, 2024 has not been paid to the petitioner, which was a consequence of such freezing at the relevant juncture.

11. Since there is nothing on record to indicate that there has been any suspension of the petitioner or even that any disciplinary proceeding has been initiated, let alone having culminated in a penal order, there cannot be any legitimate ground of withholding the salary of the petitioner.

12. Accordingly, W.P.A. No. 8315 of 2024 is disposed of by directing the respondent no. 2, that is, the District Magistrate and Collector, Dakshin Dinajpur, to ensure that the respondent no. 5, that is, the Treasury Officer, Balurghat Treasury No. 1, disburses the salary of the petitioner for the

months of October, 2023 to March, 2024, which has been deposited with the Treasury, to the petitioner, subject to the petitioner applying before the respondent no. 5 within a week from date in due process of law.

13. Upon such application being made, the amount shall be disbursed to the petitioner within a month thereafter.

14. It is made clear, however, that nothing in this order shall prejudice in any manner the rights and contentions of any of the parties in the pending criminal proceedings against the petitioner or his mother.

15. The petitioner shall be permitted to join his service in the meantime, subject, of course, to any penal action if taken in the event a disciplinary proceeding is initiated against the petitioner and culminates in a penal order.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)