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21.05.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 13780 of 2024

Subhasis Das
Vs.
The Union of India & Ors.

Mr. Aditya Bikram Mahata
...for the petitioner

Mr. Ajay Kumar Dasgupta,
Ms. Sarda Sha
...for the respondents

1. Affidavit of service filed today be kept on record.
2. The petitioner claims compensation for the laches on the part of the postal authorities/respondents. The petitioner sent a particular amount of money to his wife in connection with a matrimonial dispute, which was never received by his wife.
3. Upon enquiry being made under the Right to Information Act, 2005, contradictory replies were given at different points of time by the postal authorities. In the information supplied on January 09, 2024, it was stated that the concerned money order was returned to the sender on June 14, 2022. However, since the petitioner never got the same, the petitioner re-approached the postal authorities when on March 13, 2024, it was stated by the said

authorities under the 2005 Act, that on consulting with system and manual record no eMO was found to be received by the SPM Baidyabati MDG.

4. Learned counsel for the postal-authorities submits that subsequently on May 17, 2024, the money order was returned to the petitioner and the petitioner has received the same.

5. It transpires from the record that the writ petition itself was filed on May 09, 2024 and even if the petitioner has been returned the money order on May 17, 2024 during the pendency of the writ petition, the fact remains that the petitioner suffered immense mental agony, tarnishing of his goodwill and also financial loss and inconvenience, since the salary of the petitioner was attached as a consequence of non-payment of the said quantum of money in lieu of maintenance to his wife.

6. Since the money order has ultimately been returned to the petitioner, the stand of the petitioner is vindicated that the same was all along lying with the postal-authorities and that denial by the said authorities of the same having ever been received is completely inconsistent with the truth.

7. Thus, there cannot be any manner of doubt that the petitioner is entitled to damages and/or compensation from the postal authorities due to their lackadaisical approach and negligence on the grounds as enumerated above.

8. However, the difficulty on the part of the writ court is that in order to assess the exact quantum of damages awardable to the petitioner on the count of actual financial losses, mental agony and tarnishing of goodwill and image, the writ court does not have the adequate modalities to take evidence and assess the same, as the disputed questions of fact are intricate and require substantial assessment of evidence to be decided.

9. In such view of the matter, W.P.A. No. 13780 of 2024 is disposed of in the light of the above observations by granting liberty to the petitioner to approach the competent civil court for claiming damages and/or compensation on the grounds as indicated above.

10. If so approached, the civil court shall decide the quantum of damages and/or compensation in accordance with law, upon giving adequate opportunity of hearing and to adduce evidence to both the parties.

11. There will be no order as to costs.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all required formalities.

(Sabyasachi Bhattacharyya, J.)