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06.05.2024
Ct. No. 11
Jayanta

WP.CT 169 of 2023

Dr. Sonali Ghosh
vs
Union of India & Ors.

Mr. D. K. Samanta
Mr. A. K. Paul
Ms. Shilpi Paul

..... For the Petitioner.

Mr. Atarup Banerjee
Mr. Subrata Santra

..... For the Respondents.

By this writ petition, the petitioner has questioned the legality of the order dated 9th October, 2023 passed by the learned Tribunal in O. A. 1030 of 2023 refusing to entertain the petitioner's prayer for interim relief.

For clarity and convenience, the order dated 9.8.2023 is quoted herein below:

"Ld. Counsel for the applicant is present.

Issue "Notice" to the respondents to file reply.

Ld. Counsel for the applicant requests to allow him to serve the respondents by through speed post.

Request is accepted.

Registry is directed to follow the sub Rule 5 of Rule 11 of CAT (Procedure) Rules, 1987.

It is made clear that at this stage, we have not entertained the Interim Relief as sought for in this O. A.

List this matter on 04.10.2023."

Adverting to the facts of this court, it would be noticed that the petitioner joined the Kanchrapara Railway workshop as Medical Officer (DMO/WRH/KPA/E.Rly.) on 7th February,

2015. Subsequently thereto, by an order dated 23.03.2022, she was transferred to post of DMO/MLDT/E.Rly (i.e. at Malda).

The petitioner made an application for withdrawal and/or cancellation of the order of transfer on the grounds enumerated therein but despite receipt of such application, the same was kept in suspended animation.

On 24.3.2022, the petitioner went to the office of the respondent no. 10 to submit an application for grant of Child Care Leave (in short, CCL) in her favour. The respondent no. 10 refused to accept such application without assigning any cogent reason. The petitioner made such prayer through an *e-mail*.

On 4.5.2022, the petitioner received an *e-mail* from the respondent no. 9 wherefrom it transpired that an enquiry committee had been set up to enquire into an allegation levelled against the petitioner on the score that on 24.3.2002, she had misbehaved with the respondent no.10 since the respondent no. 10 had refused to accept her application. Subsequently, a disciplinary proceeding was also initiated against her.

Situated thus, the petitioner preferred an original application being O.A. no. 1030 of 2023 seeking cancellation of the charge-sheet, a direction upon the respondent no. 4 to consider her representation dated 24.03.2022 and other allied reliefs.

Mr. Samanta, learned advocate appearing for the petitioner contends that though the petitioner made out a good case in her favour for getting the interim relief but the arguments, as advanced in support of her prayer for interim relief, were glossed over and no finding was returned on the issues raised

on behalf of the petitioner and ultimately, by passing a cryptic order, the petitioner's prayer for interim relief was refused.

He seeks to urge that unless the interim relief, as prayed for by the petitioner is granted, the petitioner will be highly prejudiced. He submits an interim order be passed directing the respondents to consider her representation dated 24.03.2022.

Mr. Banerjee, learned advocate appearing for the respondent vehemently opposes such prayer. He submits that the petitioner is claiming main relief at the interlocutory stage and as such, such prayer cannot be entertained.

Heard the learned advocate appearing for the respective parties.

On a bare perusal of the original application, it would be explicit that the interim reliefs, as inserted in paragraph-9 of the original application and the main reliefs, as incorporated in paragraph-8 thereof are nothing but verbatim reproduction of each other.

It is well accepted principle that an interim relief is granted in the aid of final relief and as a corollary, it must yield to another principle that substantial relief and/or main relief cannot be granted as interim relief.

As noticed earlier, such relief i.e. a direction upon the respondent no. 4 to consider her representation dated 24.03.2022 is one of main reliefs sought for by the petitioner in her original application and as such, such relief cannot be granted as interim relief.

Therefore, we don't find any reasonable force in the submission of Mr. Samanta. We do not find any error, least to

say, any patent error or jurisdictional error in the order impugned and as such, we do not find any justification to interfere with the same.

As a result, the writ petition is, thus, dismissed.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.)

(Tapabrata Chakraborty,J.)