

27.11.2024

**Sl. No. 71
Ct. No. 23
Srimanta
List – M/L**

WPA/22366/2024

Bapan Sutradhar

-Vs.-

Mackintosh Burn Limited & Ors.

Mr. Joyak Kumar Gupta,
Mr. Aniket Mitra

...for the petitioner.

Mr. Arnab Chakraborty,
Ms. Pragya Bhowmick

...for the respondents.

The petitioner was given appointment on compassionate ground as his father died in harness on 29th March, 2020. The petitioner joined the services of respondent no. 1 as a casual worker at Gajoledoba site in New Jalpaiguri on 1st June, 2022. The petitioner left the site without any prior intimation or approval of his higher authority on 15th June, 2022. The petitioner says that he was unwell and had to leave the site for treatment. The petitioner thereafter went to join the respondent no. 1 in September, 2022 but was not allowed to join thereat. The petitioner made representations before the respondent no. 1 and thereafter filed a writ petition being WPA/14351/2023. This writ petition was dismissed on merit by an order dated 28th June, 2023. The petitioner assailed the said order before the Division Bench by filing an appeal being MAT/2165/2023 with connected applications being CAN/1/2023 and

CAN/2/2023. The appeal and the connected applications were dismissed on contest. However, the order of the Division Bench provides for the same.

"We are not inclined to interfere with the order passed by the learned Single Judge. However, the respondent authorities may treat the representation as a mercy petition and decide the said representation within four weeks from date."

The representation of the petitioner as directed by the Division Bench was treated as a mercy petition and has been decided by the Managing Director of respondent no. 1 being respondent no. 2 in this writ petition by rejecting the prayer after giving detailed reasons. The petitioner has now challenged the said order passed by the respondent no. 2 on 19th March, 2024. The petitioner contends that the respondent no. 2 in view of the direction of the Hon'ble Division Bench should have sympathetically considered the petitioner's representation but has simplicitor expressed his view that the petitioner cannot be allowed to join.

After hearing the parties and considering the materials-on-record as also the orders passed by this Court, I find that there was no direction by the Division Bench to consider the petitioner's representation in a sympathetic manner. It only held

that the petitioner's representation be considered as a mercy petition. The respondent no. 2 after considering the petitioner's representation from all angles possible has found that the petitioner should not be allowed to join. The petitioner's attempt failed when the previous writ petition was dismissed. The petitioner also did not succeed in the appeal. However, the limited direction given by the Appellate Court has been duly complied with. I do not find any illegality or irregularity in the order dated 19th March, 2024 passed by the respondent no. 2. The petitioner after dismissal of the writ petition and the appeal cannot be allowed to reopen the issue by challenging the reasoned order as that will amount to an abuse of process and law. It is well settled in view of the Judgment of the Supreme Court reported in 2006(3) SCC 674 [A.P.S.R.T.C. & Ors. -Vs.- G. Srinivas Reddy & Ors.] that successive writ petitions should not be entertained on the ground that a litigant should not be permitted to agitate and reagitate the same issue time and again until a favourable order is passed in his favour.

The writ petition being WPA/22366/2024 is dismissed, however, without any order as to costs.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(Arindam Mukherjee, J.)