

24.09.2024
rpan/21

WPST 199 of 2024
Swapn Kumar Saha
– *Versus* –
The State of West Bengal & Others

Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay
... for the Petitioner.
Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar
... for the State/Respondents.

The present writ petition was preferred challenging an order dated 10th September, 2024 passed by the learned Tribunal in the original application (in short, OA), being OA 404 of 2024 by which the petitioner's prayer for issuance of an interim order was deferred till 16th January, 2025 directing the respondents to submit their reply.

Mr. Das, learned advocate, assisted by Mr. Chattopadhyay, learned advocate appearing for the petitioner submits that the petitioner preferred the OA challenging *inter alia* a memo dated 31st August, 2022 by which the respondent no.4 modified the date of promotion from 1st March, 2013 to 31st January, 2011 observing that the petitioner's pay and allowances would be re-fixed from 1st January, 2013 and overdrawn salary would be deducted from the monthly salary bill. Opportunity was granted to the petitioner to file a reply to the said memo, with a default clause that if such reply is not filed within the time stipulated, the office would do the needful. The petitioner replied to the same. Thereafter, a memo dated

2nd March, 2023 was communicated to the petitioner detailing the alleged amount overdrawn and immediately thereafter deductions were effected from the monthly salary of March, 2023 itself. In the midst thereof, an identical notice of recovery was challenged by one Chittaranjan Biswas, who is similarly situated with the petitioner, before the learned Tribunal and aggrieved by the order passed in the concerned OA, a writ petition, being WPST 48 of 2023 was preferred in which an order was passed on 12th April 2023 setting aside the portion of the memo dated 31st August, 2022 by which recovery was intended from the monthly salary. Though such fact was brought to the notice of the learned Tribunal, the prayer for interim order was deferred for consideration and as a consequence thereof, the petitioner had been the worst sufferer.

Mr. Mukherjee, learned advocate appearing for the State respondents could not dispute the fact that a similar order of recovery was interfered with by a co-ordinate Bench of this Court.

Prima facie, an arguable case has been made out by the petitioner and it is surprising as to how consideration of the petitioner's prayer for interim order could have been deferred by the learned Tribunal when a co-ordinate Bench of this Court had interfered with a similar order of recovery.

Accordingly, the respondents are restrained from recovering any amount from the monthly salary of the petitioner till the disposal of the original application.

In view thereof, no useful purpose will be served by keeping the writ petition pending any further and the same is, accordingly, disposed of.

The respondents are directed to file their reply to the OA within four weeks after the Vacation. Rejoinder thereto, if any, be filed within two weeks thereafter.

The parties would be at liberty to mention the matter for final hearing before the learned Tribunal after expiry of the period as specified above towards exchange of reply and rejoinder.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)