

Form No. J (2)
Item No.13
Court No.26

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

F.M.A. 220 of 2024

Sudip Khanra @ Sudip Khara

VS.

State of West Bengal & ors.

For the Appellant : Mr. Debasis Sur, Advocate
Mr. Angsuman Patra, Advocate
Mr. Harekrishna Halder, Advocate
Ms. Kakan Das, Advocate
Mr. Mrinmoy Chatterjee, Advocate

For the State Respondents : Mr. Pinaki Dhole, Advocate
Mr. Sayan Datta, Advocate

Heard on : 06.08.2024

Judgment on : 06.08.2024

DEBANGSU BASAK, J.:-

1. Appeal is directed against the order dated October 10, 2023 passed in W.P.A. 23305 of 2023.

2. Learned advocate appearing for the appellant submits that, the appellant was a contractual Group-D staff. He worked for a period of time.

While working, there was a First Information Report (F.I.R) lodged against him for alleged defalcation of a sum of Rs.72,396/-. He submits that, he deposited the entire allegedly defalcated amount with the authorities. Thereafter, the appellant applied for anticipatory bail which was granted by an order dated August 1, 2022 passed in CRM(A) 3657 of 2022.

3. Learned advocate appearing for the appellant submits that, appellant was not paid salary for seven months for the period up to May, 2022. Appellant worked and discharged his duties at such post. Appellant is entitled to the salary for such work. Appellant was not paid. Therefore, appellant approached the authorities with a representation. The representation not being considered, appellant filed a writ petition being W.P.A. 25277 of 2022 which was disposed of by an order dated December 5, 2022, directing the District Magistrate to consider such representation and pass a reasoned order.

4. Learned advocate appearing for the appellant submits that, District Magistrate passed a reasoned order dated September 5, 2023 where, the claim of the appellant was rejected. He submits that, appellant made two claims before the District Magistrate as also in the representation. One claim was with regard to restoration to his services and the other was with regard to payment of the salary for the period when he was in service and not paid. District Magistrate rejected both the claims.

5. State authorities are represented.

6. Records made available to Court demonstrate that, appellant was working as a contractual Group-D employee since July 8, 1996. Appellant was placed in the District Compensation Section, District Compensation Officer Establishment in the district of Paschim Medinipur. Appellant was suspended from service on discovery of various misdeeds by the appellant in the discharge of his duties. An FIR was lodged being FIR NO.361 of 2022 dated May 31, 2022 under Sections 406/409/420/468/471 of the Indian Penal Code, 1860 at the Kotwali Police Station against the appellant.

7. Appellant applied for anticipatory bail being CRM(A) 3657 of 2022 which was granted the same on August 1, 2022 on the finding that, appellant deposited the alleged defalcated amount, with the authorities.

8. It is not disputed at the Bar that, appellant deposited alleged defalcated amount of Rs.72,396/- with the authorities.

9. Appellant was not allowed to join his services on finding of his misdeeds in course of discharge of his duties. In fact appellant was a contractual employee. His contract was not extended. He was not allowed to join. So far as rejoining his services is concerned, since the appellant was a contractual employee and in view of the misdeeds committed by the appellant, we are not minded to interfere with such decision of the authorities.

10. So far as the decision of the District Magistrate with regard to claim for pay as contained in the impugned reasoned order dated September 5, 2023 is concerned, we find that, the District Magistrate did not allude to

the fact that the appellant remained unpaid for a period of time in respect of services he rendered as such employee.

11. It is the contention of the State that the claim for seven months salary should be considered in the light of the actual work done by the appellant.

12. There is some justification in the contention of the State. Relevant authorities will look into the attendance of the appellant. If the relevant authorities find that, appellant worked for a certain period of time and was not paid for such period of time, relevant authorities will proceed to disburse such payment within period of four weeks from date.

13. FMA 220 of 2024 was initially dismissed for default on March 20, 2024. FMA 220 of 2024 was accompanied by IA NO: CAN/1/2024 and both were in fact dismissed for default on March 20, 2024.

14. The order dated March 20, 2024 was recalled by the order dated June 28, 2024. Order dated June 28, 2024, however, does not direct restoration of IA NO: CAN/1/2024 inadvertently. The effect of the order dated June 28, 2024 is such that it restored not only FMA 220 of 2024 but also IA NO:CAN/1/2024. Department will therefore, treat IA NO:CAN/1/2024 as restored by the order dated June 28, 2024.

15. FMA 220 of 2024 along with IA NO:CAN/1/2024 stand **disposed of** accordingly without any order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

17. I agree.

(Md. Shabbar Rashidi, J.)

CHC