

21.02.2025

ItemNo.DL/17
Court No. 23

Asraf, A.R.(Ct.)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

CPAN 123 of 2025
in
WPA 30149 of 2024

SUBIR SAHA
VS.
SANGHAMITRA GHOSH, The Principal
Secretary, Dept. of Women & Child Development
& Social Welfare, Govt. of West Bengal & ORS.

Mr. Siddhartha Banerjee
Mr. Sudipta Dasgupta
Mr. Arka Nandi
Mr. Saikat Sutradhar

....for the Petitioner

Mr. Santanu Kumar Mitra, Sr. Govt. Adv
Mr. Subhabrata Das

....for the Alleged Contemnors

The learned advocate for the alleged contemnors has placed before this Court an instruction given by Mr. Tapas Kumar Das, CDPO, Dhaniakhali. It appears from such instruction which is taken on record that the payment of salary of the petitioner was automatically stopped by the HRMS system as a consequence of the petitioner's decision not to join at his transferred place even though he was permitted to do so by the solemn order of the Hon'ble High Court. This Court fails to appreciate such stand.

On a harmonious construction of the order dated 20th December, 2024 being the order under contempt,

it will appear that this Court in view of the application filed by the petitioner before the West Bengal Administrative Tribunal (in short, 'WBAT') on 12th December, 2024 having not been taken up on the date fixed provided for an interregnum arrangement directing the petitioner to approach the WBAT. This Court never in the order dated 20th December, 2024 directed the petitioner to join at the transferred post. It was clearly mentioned that if the petitioner was unable to obtain a restrain order within three weeks then the petitioner had to join the transferred post without prejudice to his rights in the application before the WBAT.

The petitioner had obtained the restrain order from WBAT within three weeks, as a consequence whereof the order of transfer had been kept in abeyance has been suspended. If the transfer of the petitioner from Dhaniakhali to Darjeeling had been stayed, the question of the petitioner joining at Darjeeling even if he has been released from Dhaniakhali cannot and does not arise.

The petitioner, therefore, should be permitted to work at Dhaniakhali from 24th February, 2025 since the post at Dhaniakhali wherefrom he was released is still vacant. The petitioner shall also present himself before his Reporting Authority at 10'o clock on 24th February,

2025. This permission to join and work at Dhaniakhali will be subject to the result of the application pending before the WBAT.

It is made clear that in the event the application challenging the transfer order before the WBAT fails, the petitioner will be governed by the orders that may be passed by the WBAT.

The petitioner shall also be paid the regular salary and other emoluments from the date of his joining at Dhaniakhali pursuant to this order. The past salary till the date of his release, i.e., 10th December, 2024 shall also be released as early as possible but not beyond 7th March, 2025.

Nothing remains to be adjudicated in this contempt application. The contempt application is accordingly disposed of.

The parties are directed to act upon the server copy of this order duly downloaded from the official website of this High Court without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)