

26-11-2025
ct no. 10
Sl.44
RP

WPA 9788 of 2025

Prasenjit Chanda

-Versus-

The State of West Bengal & Ors..

Mr. Lakshman Chandra Halder

...for the petitioner

Mr. D. Mukherjee,

Ms. Susmita Chatterjee

...for the State

Mr. Sayak Ranjan Ganguly

Ms. Srijani Ghosh

Ms. Indrani Majumdar

...for respondent no.4

1. The parties are represented through their
learned Counsels.

2. The petitioner files the instant writ
petition for following reliefs:-

- a. *A writ of and/or Writ in the nature of Madamus commanding the responder no. 2 to act according to law and principles of natural justice;*
- b. *A writ of and/or in the nature of Mandamus commanding the respondent no. 2 to rescind, recall and/or alter the impugned order (Annexure P-11) and to adjudicate case as on merit and to pass an appropriate award and to act according to law.*
- c. *A writ of Certiorari commanding to the respondent no. 2 to certify and transmit the records of the Case No. 09/10 (1B)(d) 2019 includign the impugned Award (Annexure P-11) for scrutiny and examination of the Hon'ble Court, to set aside and/or quashed the impugned Award;*
- d. *Any appropriate writ/writs as the Hon'ble Court deem fit and proper;*
- e. *A Rule NISI in terms of the prayer (a),(b),(c) & (d) as above;*
- f. *Pending disposal of the Rule issue an orde directing the respondents not to give effect to the impugned award and subsequent order of publication;*
- g. *Any other order/orders, direction/directions as the Hon'ble Court may seem fit and proper.*

3. Apropos the facts of the case is that petitioner being a worker filed an application on 14.11.2019 under Section 10(1B)(d) of the Industrial Disputes Act (hereinafter referred to the 'said Act') against the employer M/s. Dewan Housing Finance Corporation Limited in connection with the termination of service by the employer company praying, inter alia, for an award holding that application with effect from 03.10.2028 by the respondent no. 3 is illegal, *void ab initio* and to pass an order granting reinstatement in service with full back wages and other consequential benefits and the reasonable cost and interest thereto.
4. After hearing the matter, the tribunal was pleased to deliver an award on 3rd of March, 2025 holding that the said application under Section 10(1B)(d) is not maintainable and dismissed without any order as to the costs.
5. The petitioner submits that the tribunal without considering the issue of the termination of service which was under

challenge before the tribunal and delivered the award and dismissed the same only on the ground of maintainability without taking any decision regarding the issue which was the subject matter of challenge before the tribunal.

6. The petitioner also submits that the proceeding initiated by the Reserve Bank of India before the NCLT for discharging the claim of creditor and the finance provider, cannot be a ground for relegating the issue before NCLT when the issue remains pending before the tribunal for considering the issue of termination of service.
7. The respondent no. 4 submits that the point of maintainability was taken up with regard to the locus of the petitioner for not coming within the ambit of the workman under the said Act. It is also submitted that respondent no. 3 & 4 was merged and subsequently the case was referred to NCLT for resolution.
8. The respondent submits that the tribunal has only jurisdiction to adjudicate

disputes between workman and employer and not in a case where a person is not a workman like the petitioner praying for setting aside of the termination of service by claiming his back wages.

9. After careful consideration of the case I am of the considered view that the order of the tribunal suffers from a legal infirmity without taking into consideration the issue of challenge thrown by the petitioner. The tribunal without exercising his proper application of mind had dismissed the preliminary issue arbitrarily on the ground of maintainability in the light of the proceeding initiated under Insolvency Bankruptcy code. Since the issue agitated before the tribunal pertains to the termination of the service of the workmen therefore the public announcement of lodging claim before the CIRP does not arise at all. The tribunal has failed to adjudicate the justifiability of the termination of service without appreciating the fact that claims of dues, recoverable from the respondent No. 3 and

4 under the provisions of IPC 2016 is not application to the proceeding initiated before the tribunal. Therefore, the tribunal orders suffer from a patent error of jurisdiction and are, therefore, unsustainable in law.

10. In view of the above the award dated 3rd March, 2025 delivered by the tribunal is set aside since it is erroneous, irrational and contrary to established law, and the same is remanded back to the tribunal directing inter alia to revisit the issue by deposing of the case on merits in accordance with law including the point of maintainability within a period of 2 months after providing opportunity of hearing to the parties.
11. The writ petition being WPA 9788 of 2025 is disposed of without taking any exception to the merits of the case.

(Smita Das De, J.)