

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

Present :

The Hon'ble Chief Justice T. S. Sivagnanam

And

The Hon'ble Justice Chaitali Chatterjee (Das)

MAT/695/2025
RAM NARESH SINGH AND ORS.
VS
AKHILESH KUMAR SHARMA
IA NO: CAN/2/2025

For the appellants:

Mr. Kishore Datta
Mr. Pratik Majumder

For the Respondent:-

Mr. Durga Prasad Dutta
Mr. Sumanta Ganguly

Heard on : 10.07.2025.

Judgment on : 10.07.2025.

T. S. SIVAGNANAM, CHIEF JUSTICE.:

1. This appeal under Clause 15 of the Letters Patent is directed against the order dated 21st February, 2025 passed in CPAN 81 of 2025 in WPA 10271 of 2020.

2. The learned advocate appearing for the respondent/writ petitioner raised a preliminary objection as regards the maintainability of this appeal stating that in the order passed by the learned Single Bench in the contempt petition no punishment has been imposed and, therefore, this appeal is not maintainable.

3. As mentioned above this appeal has been filed under Clause 15 of the Letters Patent on the ground that the order and direction issued in the contempt petition goes beyond the scope of the order passed in the writ petition, namely, WPA 10271 of 2020. If that be the case, an appeal under Clause 15 of the Letters Patent is maintainable against such an order.

4. Therefore, we are required to see as to whether the order passed in the contempt petition travels beyond the scope of the direction passed by the learned Single Bench in the writ petition.

5. The case has had a very chequered history and there has been earlier round of litigation, matter travelled upto the Hon'ble Supreme Court on earlier two occasions ultimately the DVC/appellant herein thought fit to withdraw their appeal in MAT 224 of 2021 and decided to implement the directions issued by the learned Single Bench.

6. At this juncture, we take note of the direction issued by the learned Single Bench and would be suffice to take note of the operative portion of the order dated 19th January, 2021 which reads as follows:

“In view of the above, this Court holds that the writ petitioner is entitled to be absorbed against any vacancy in the Group-D post commensurate with the nature of work he has performed in the DVC and the DVC is directed as such.

With the aforesaid observations, the instant writ petition is allowed.”

7. It is pointed out by the learned advocate for the respondent/writ petitioner that the respondent/writ petitioner had filed the writ petition seeking for benefits from the date of initial engagement on casual basis on account of his continuous employment though that might have been a prayer in the writ petition. The direction issued by the learned writ court is to absorb the respondent/writ petitioner against any vacancy in the Group-D post commensurate with the nature of work he has performed in the DVC and the DVC is directed as such and with this observation, the writ petition was allowed.

8. Therefore, it is clear that the court did not fix any particular date from which the length of service should be computed.

9. However, in the contempt petition for the first time the learned writ court held that the appointment of the respondent/writ petitioner shall take effect for the purpose of length of service from 28th August, 2014.

10. This direction, in our considered view, is beyond the scope of the direction issued in the writ petition and virtually the order passed in the writ petition has been modified that too while considering the contempt petition therein the allegation was that the appellant/DVC had violated the direction.

11. It is pointed out by the learned advocate for the appellants that after the intra court appeal was withdrawn by DVC, the DVC has implemented the order passed by the learned Single Bench and appointed the respondent/writ petitioner as Junior Messenger by appointment offer dated 7.3.2022 and he was placed under probation for a period of one year. On successful completion of the probation by office order dated 6.12.2024 he was confirmed in the post of Junior Messenger (Group C/D) with effect from 8.3.2023, after successful completion of one year probation period on 7.3.2023.

12. Therefore, the order passed in the contempt petition calls for interference.

13. Accordingly, the appeal is allowed and the order and direction issued in CPAN 81 of 2025 dated 21.2.2025 is set aside.

14. However, we do not propose to foreclose the rights of the respondent/writ petitioner as it is a submission of the learned advocate for the respondent that other similarly placed persons had filed a writ petition seeking for benefits from the date of initial engagement and the learned writ court had passed orders to the effect that 50% of the past

service will be taken into consideration and certain orders have also been passed by DVC.

15. Therefore, we leave it open to the respondent/writ petitioner to work out his remedies in accordance with law by approaching the DVC by way of representation seeking for similar relief.

16. In the event it is not granted, it is open to the respondent/writ petitioner to take recourse before the appropriate forum in the appropriate manner.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)

Item No.7
gd/ssd