

13.02.2025
Item No.1
Ct. No.26
CHC

FMA 818 of 2024
IA NO: CAN/2/2025
Md. Moijuddaula Mollick
Vs.
The State of West Bengal & Ors.

Md. Moijuddaula Mollick
...appellant (In Person)
Mr. Tapan Kumar Mukherjee, Senior Advocate
Mr. Somnath Naskar, Advocate
...for the State

1. CAN/2/2025 is an application for restoration.
2. Appellant appears in person. He submits that, there was an unfortunate death in his family which prevented him from appearing when the matter was called on.
3. State is represented.
4. Considering the explanation made in the application for restoration and in the interest of justice, we recall our order dated January 20, 2025 dismissing the appeal.
5. CAN/2/2025 is allowed. Appeal is registered to its file and number.
6. By consent of the parties, appeal is taken up for final hearing.
7. Appellant submits that, appellant was illegally sent to Medical Board in 2005. Appellant was illegally dismissed from service on January 19, 2005 based on an illegal medical report. Thereafter, appellant filed a writ petition assailing such order of

termination. He submits that, he was sent to a subsequent medical board which he attended. Thereafter, he rejoined the services with effect from November 19, 2009. Appellant submits that he superannuated on December 31, 2019. During the period of his joining on November 19, 2009 till his superannuation he made several representations to the authorities for the purpose of grant his salary and other benefits for the period from January 19, 2005 till November 18, 2009. However, since, such benefits were not given to him, he approached the High Court through a writ petition which resulted in the impugned order.

8. Appellant submits that, he was not aware of the DCRB Rules which governs his service conditions. On being made aware of such Rules, he questioned the stand of the authorities as well as the steps taken as against him. He submits that, Court should direct grant of salary along with interest and other benefits to him for the period from January 19, 2005 till November 18, 2009.

9. State is represented.

10. Appellant was initially dismissed from service on January 19, 2005 based on a medical report that he was permanently incapacitated from discharging his services. Appellant approached the Writ Court by way of WPA 12001 of 2007. Such writ petition being

WPA 12001 of 2007 was disposed of by directing the authorities to take a decision on the representation of the appellant by passing a reasoned order. Pursuant to such direction, the prayer for reinstatement of the appellant in the services was rejected by the authorities by an order dated September 1, 2008.

11. Such decision of rejection dated September 1, 2008 was questioned by the appellant in WPA 4238 of 2009. In such writ petition an order dated September 9, 2009 was passed directing the constitution of a medical board to find out whether the appellant was mentally and physically fit to resume his job or not.
12. In terms of such order, a medical board was constituted. The medical board opined by a report dated October 9, 2009 that the appellant mentally and psychologically fit to resume duties. It also opined that the appellant should be allowed to resume his duty as Job Assistant in Rajibpur Gram Panchayat. Based on such medical report dated October 9, 2009, appellant was permitted to resume his duty as Job Assistant with effect from November 20, 2009.
13. For the period from November 20, 2009 till his date of superannuation being December 31, 2019 appellant did not approach any Court claiming that

he was denied his service benefits for the period from January 19, 2005 till November 19, 2009.

14. Subsequent to his superannuation, appellant approached the Writ Court by way of the writ petition being WPA 6779 of 2020.

15. By the impugned order, learned Single Judge noted such facts. Learned Single Judge also noted that, there are two medical reports in respect of the appellant. One was of the 2005 which found the appellant to be unfit and the one in 2009 which found the appellant to be fit to resume his duty. Learned Single Judge found no material on record to arrive at a finding that either of the two reports was wrong.

16. No extra material is placed before us to suggest let alone establish that, any of the two medical reports of 2005 or 2009 is wrong.

17. In such circumstances, we find any merit in the present appeal.

18. **FMA 818 of 2024** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)