

May 5, 2025
Sl. No.12
Court No.19
s.biswas

WPA 15257 of 2023

Dipali Maji
vs.
Union of India and others

Mr. Soumyajit Das Mahapatra
Ms. Madhurai Sinha

... for the petitioner

Mr. K. M. Hossain
Ms. Paramita Pal

... for the State

Ms. Aparna Banerjee
Ms. Amrita Pandey
Mr. Ghanshyam Pandey
Mr. Supratim Ghosh

... for the Union of India

1. The affidavit of service as filed today on behalf of the writ petitioner, is taken on record. Learned advocate appearing on behalf of the respondent State and its functionaries i.e. the respondent nos.5 to 8, has submitted a report in the form of affidavit after serving a copy of the same to the learned advocate on record for the writ petitioner. The same is also taken on record.
2. By filing the instant writ petitioner, the writ petitioner has prayed for issuance of writ of mandamus against the respondent authorities, more specifically against the respondent no.8 commanding him to release the interest on delayed payment of compensation as has been awarded in favour of the writ petitioner along with other ancillary reliefs.
3. In course of her submission, Ms. Sinha, learned advocate on behalf of the writ petitioner at the

very outset draws attention of this court to page no.19 of the instant writ petition being a copy of the notice under Section 3H(2) of the National Highways Act, 1956 (hereinafter referred to 'the Act of 1956' for short), whereby and whereunder the respondent no.8 authority intimated the writ petitioner that in pursuance of the award as passed by the respondent no.8 authority, a sum of Rs.19,77,361/- would be credited in the bank account of the writ petitioner.

4. At this juncture, Ms. Sinha draws attention of this court to page no.24 of the instant writ petition being a copy of the relevant page of the passbook of the writ petitioner's bank account. It is submitted by Ms. Sinha that from the said relevant page of the bank account of the writ petitioner, it would reveal that the awarded amount has been credited in the account of the writ petitioner at a very belated stage that is on 28.06.2021 for the reason best known to the respondent no.8 authority.
5. In her next limb of submission, it is submitted by Ms. Sinha that from page 22 of the instant writ petition, it would reveal that despite issuance of the said letter, since the respondent no.8 was reluctant to credit the awarded amount in favour of the writ petitioner, the writ petitioner had to approach before a Co-ordinate Bench of this court

by filing WPA 2005 of 2021 wherein a favourable order was passed by the said Co-ordinate Bench in favour of the writ petitioner on 08.03.2021 directing the respondent no.8 authority to take immediate steps for disbursement of the compensation. It is thus submitted by Ms. Sinha that only after passing of the said judgment and order dated 08.03.2021 in WPA 2005 of 2021, the aforementioned amount was credited in favour of the writ petitioner.

6. At this juncture, Ms. Sinha took me to page nos.26 to 34 of the instant writ petition being copies of the judgment and order dated 05.02.2021 as passed in WPA 8628 of 2020 (Rajesh Dutta vs. the Unions of India & Ors.) by a Co-ordinate Bench of this court wherein in a similar circumstance 10% interest was awarded.
7. It is submitted that the said order was however assailed in an appeal but the said appeal was dismissed and even the Hon'ble Supreme Court declined to entertain the special leave petition challenging the order of the said Single Bench as well as the Division Bench as passed in the writ appeal.
8. It is thus submitted by Ms. Sinha that the present writ petitioner is similarly circumstanced with the writ petitioner in WPA 8628 of 2020 and

thus appropriate relief/reliefs may be granted to the writ petitioner.

9. Per contra, Mr. K. M. Hossain, learned advocate appearing for the respondent State at the very outset draws attention of this court to page nos.10 to 26 of the report as submitted by him today being a copy of the writ petition in WPA 2005 of 2021 as filed by the present writ petitioner in an earlier round of litigation. It is submitted that from the prayer portion of the said writ petition, it would reveal that in an earlier round of litigation, the writ petitioner had prayed for disbursement of the awarded amount together with statutory interest till the date of actual payment.

10. At this juncture, Mr. Hossain also took me to page no.22 of the instant writ petition being a copy of the judgment and order dated 08.03.2021 as passed in WPA 2005 of 2021. It is submitted that while passing the said judgment and order, a Co-ordinate Bench of this court only passed an order for disbursement of the compensation but no order has been passed for disbursement of any interest as prayed for by the writ petitioner in the said earlier round of litigation.

11. In his next fold of submission, Mr. Hossain draws attention of this court to Section 11 of the Civil Procedure Code, 1908 more specifically to

Explanation V thereof. It is submitted that in view of the provision of Section 11, Explanation V of the C.P.C., the present prayer of the writ petitioner is barred under the principle of res judicata. It is thus submitted on behalf of the State that the instant writ petition may be dismissed being not maintainable.

12. This court has meticulously gone through the entire materials as placed before this court. This court has considered the submissions of the learned advocates for the contending parties. This court has carefully considered the provision of Section 11 of the Civil Procedure Code vis-à-vis the prayers made by the writ petitioner in WPA 2005 of 2021 as well as the judgment and order dated 08.03.2021 as passed by a Co-ordinate Bench of this court in WPA 2005 of 2021.

13. For effective adjudication of the instant *lis* the provision of Section 11 of the Civil Procedure Code is required to be looked into and the same is reproduced hereunder in verbatim:

“11. Res judicata – No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been

subsequently raised, and has been heard and finally decided by such Court.

*Explanation I - ****

*Explanation II - ****

*Explanation III - ****

*Explanation IV - ****

Explanation V – Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purposes of this section, be deemed to have been refused.

*Explanation VI - ****

*Explanation VII - ****

*Explanation VIII - *** ”*

14. Keeping in mind the aforementioned legislative position, if I look to the prayer portion of WPA 2005 of 2021 as filed by the writ petitioner, it reveals to this court that admittedly in the said writ petition the writ petitioner had prayed for issuance of appropriate writ not only for disbursement of payment of compensation but also for disbursement of statutory interest.

15. On perusal of the judgment and order dated 08.03.2021 as passed in WPA 2005 of 2021 it appears to this court that a Co-ordinate Bench of this court while disposing the said writ petition being WPA 2005 of 2021, passed an order directing the respondent no.8 therein to take immediate steps for disbursement of compensation amount to the writ petitioner.

16. As rightly pointed out by Mr. Hossain that while allowing and/or disposing the said writ petition, the said Co-ordinate Bench passed no order for grant of payment of any interest though such prayer was specifically made in the prayer portion of WPA 2005 of 2021 which tantamounts to refusal of such prayer.

17. This court is well aware that strict principles of Code of Civil Procedure does not apply to a writ petition, however principle analogous thereto applies in a writ proceedings.

18. This court thus finds that the prayer made in the instant writ petition cannot be entertained since the same is barred under the principle of res judicata.

19. With the aforementioned observation, the instant writ petition is dismissed.

20. There shall be no order as to costs.

21. Urgent photostat certified copy if applied for be given to all the parties, upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)