

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

M.A.T. 1806 of 2024

(Assigned)

With

CAN 1 of 2025

Jugal Kishore Mishra

Vs.

Union of India & Ors.

For the Appellant (in person) : Mr. Jugal Kishore Mishra.

Amicus Curiae : Mr. Indrajeet Dasgupta.

For the U.O.I. : Ms. Chandreyi Alam,
Ms. Runu Mukherjee.

Judgment on : September 24, 2025

Madhuresh Prasad, J.:

1. CAN 1 of 2025 is wrongly listed. The application for condonation was allowed and disposed of vide order dated 19.03.2025.
2. The present appeal has been preferred by the appellant being aggrieved and dissatisfied with an order dated 13.09.2019 passed in a contempt application bearing No. WPCRC 337(W) of 2012. In the contempt proceedings, the appellant had also filed CPAN 1023 of 2023 alleging non-compliance of the order dated

13.09.2019 passed in the self same contempt proceedings. The same was taken up on 08.08.2024 which also has been disposed of after recording a finding that the directions contained in the judgment dated 13.09.2019 passed in WPCRC 337(W) of 2012 has been complied with. These orders are put to challenge by the appellant in the present appeal.

3. The appellant is an octogenarian, having a certain degree of hearing impairment. The Court was making endeavours to communicate and understand the grievance of the appellant who appeared in person. To overcome the difficulty being faced in appreciating the grievance of the appellant, we on earlier date appointed an *amicus* in the matter.
4. As regards the impugned order, the appellant (in person) submits that he has been denied justice. We, therefore, consider it necessary to take note of the chequered history of the present matter spanning over the last about 50 years. The petitioner while working as a Head Constable was awarded the punishment of dismissal from service on 25.05.1972. The same was assailed by the appellant in the writ petition bearing CR No. 7711(W) of 1972. The order of dismissal was finally quashed in the appeal proceedings arising out of the writ proceedings by an order dated 17.01.1980 passed in FMA 1017 of 1975.
5. The appellant thereafter rejoined his duties and was again placed under suspension. Thereafter the petitioner filed at least two contempt petitions alleging non-compliance with the Court's order. In the second contempt petition a direction was issued for considering his claim for suitable promotion.
6. Again the petitioner filed an application bearing No. CR No. 3190 (W) of 1984. This Court in the said proceedings directed that he be considered for promotion

to the post of Sub-Inspector and passed other consequential directions regarding consideration of his claim for promotion to the post of Inspector.

7. The order was assailed by the authorities in FMAT No. 2725 of 1988. The petitioner also took out contempt proceedings alleging non-compliance with the order passed in the writ proceedings bearing No. CR 3190(W) of 1984. During pendency of the contempt application the Union of India approached the Apex Court in special leave to appeal (Civil No. 6349 of 1992). The Apex Court considering the fact that the order passed in the writ proceedings had been stayed by an order passed in the intra-Court appeal before this Court allowed the Union of India to bring it to the notice of the Court concerned and dismissed the appeal by an order dated 27.07.1992. The contempt application (CR No. 6042 (W) of 1989) was finally disposed of on 30.03.1994.
8. The petitioner thereafter filed another writ petition bearing WP 915(W) of 1999. The writ petition was disposed of on 31.07.2001 after taking into consideration the orders passed in the earlier cases. This Court disposed of the writ petition by directing the respondent to calculate the appellant's post-retiral benefits strictly in conformity with judgment and order dated 16.07.1988 passed in CR No. 3190(W) of 1984.
9. The petitioner thereafter filed an application for modification of the order dated 31.07.2001 passed in WP 915(W) of 1999 which application was dismissed on 21.05.2002. In the order passed by the learned Single Judge the Court has recorded the fact that the authority has already extended all service benefits available to the writ petitioner in terms of the order dated 31.07.2001. The pensionary benefits could not be paid to the petitioner since he had not submitted the pension papers. The learned Single Judge thus directed the

petitioner to submit his pension papers duly signed to enable grant of pensionary benefits to him.

10. The order was challenged by the petitioner in MAT 2236 of 2002. In the appeal the present appellant tried to again rake up an issue of his pre-mature retirement and claimed promotions over and above what was granted to him by order dated 15.07.1988 passed in CR No. 3190(W) of 1984. The appeal was dismissed on 08.12.2004 since no prayer was made in the writ petition for quashing of the disciplinary proceedings pursuant to which he was pre-maturely retired.
11. The Division Bench, however, left it open to the petitioner to submit his claim for retiral benefits as it stood on the date of his pre-mature retirement. The appellant, however, filed contempt applications alleging violation of the order dated 15.07.1988 passed in CR 3190(W) of 1984.
12. Certain orders passed in the contempt proceeding CPAN No. 495 of 1999 was assailed by the authorities in an appeal AST No. 325 of 2012. The appellate Court vide order dated 31.10.2012 left it open to the appellant to show it to the Court dealing with contempt, that the orders had been complied with. This order was carried by the respondents in appeal before the Apex Court in Special Leave to Appeal (Civil) No. 4226-4227/2013. The appeal was disposed of on 19.09.2014.
13. The appellant again instituted contempt proceeding bearing WPCRC 337(W) of 2012. When the same was taken up on 19.01.2015 there was none to represent the appellant. On perusal of the records, however, the contempt Court found that the appellant was not entitled to any financial benefit. The contempt application was thus rejected.

14. The appellant challenged this order in special leave to appeal (C) No. 2248 of 2016 which was disposed of on 26.09.2016 in the following terms:

"4. Be that as it may, having regard to the advanced age of the appellant and having regard to the submission made before this Court regarding his absence before the High Court on the date the case was decided, we are of the view that the interest of justice would be served, if one more opportunity is granted to the appellant to make his submission on merits before the High court so that the High court can decide the matter on merits having regard to the submissions made by the appellant.

5. In that view, we set aside the order dated 19.01.2015 passed by the High Court and remit the matter to the High Court.

6. The appellant shall appear before the High court on 8th November, 2016 and make his submissions in the matter on merits. The appellant shall supply a copy of this judgment to the respondents.

7. The appeal is disposed of with no costs."

15. WPCRC 337(W) of 2012 was finally disposed of by a judgment dated 13.09.2019.

The judgment records the entire history of the matter. After a detailed and elaborate consideration the Hon'ble Single Judge found that some arrears were due to the petitioner on account of his promotion on notional basis, to the post of Inspector with effect from 01.04.1988. Thus an amount of Rs. 1,63,837/- was directed to be disbursed to the appellant along with arrears. The appellant's pension was also enhanced by an amount of Rs. 1344/-. The contempt application was accordingly disposed of.

16. The petitioner, however, in continuation of his relentless efforts again filed a contempt application bearing CPAN No. 1023 of 2023 in WPCRC 337(W) of 2012 which was disposed of by the Hon'ble Single Judge recording that the judgment dated 13.09.2019 was complied.

17. The present appeal has been filed challenging these two orders.

18. When the appeal is taken up the petitioner (in person) has made strenuous submissions to reassert that his pre-matured retirement was wrong and unsustainable. The issue regarding the pre-mature retirement, as a result of the punishment imposed on the petitioner in the departmental proceedings had attained finality in WP 915 (W) of 1999 and the appeal arising therefrom MAT 2236 of 2002 on 08.12.2004. These orders were never assailed by the petitioner and, therefore, the issue regarding the petitioner's claim being limited to retiral benefits "*as it stood on the date of his pre-mature retirement*" became final and binding between the parties. The said observation in MAT 2236 of 2002 was thereafter pursued by the petitioner in various contempt petitions as noted above.
19. All dues in terms of order passed in MAT 2236 of 2002, arising out of WP 915(W) of 1999 was paid to the petitioner and after recording such satisfaction the Hon'ble Single Judge has disposed of the contempt proceedings by the judgment dated 13.09.2019 passed in WPCRC 337 (W) of 2012 which is assailed in the present appeal.
20. Two issues arise for consideration. Firstly, the intra-Court appeal has been filed challenging an order passed in contempt proceedings wherein the Hon'ble Single Judge has recorded satisfactory compliance with the order passed in CR No. 3190(W) of 1984. In view of refusal to exercise jurisdiction to punish for contempt, it is by now a settled law as per decision of the Apex Court in the case of ***Baradakanta Mishra vs. Mr. Justice Gatikrushna Mishra, Chief Justice of the Orissa High Court*** reported in ***(1975) 3 SCC 535***; ***D.N Taneja vs. Bhajan Lal*** reported in ***(1988) 3 SCC 26***, that the petitioner is not entitled to invoke the intra-Court appellate jurisdiction. Secondly, we find that the issue regarding the

petitioner's pre-mature retirement having attained finality decades back now cannot be reagitated by filing the present appeal arising out of a contempt proceeding.

21. We find no infirmity with the order under appeal. The relief that the petitioner is trying to reagitate in the present proceedings cannot be permitted. The present appeal is, therefore, devoid of any merit. The appeal is dismissed.

22. Urgent Photostat certified copy of this Judgement, if applied for, be given to the parties on completion of usual formalities.

(Madhuresh Prasad, J.)

I agree.

(Supratim Bhattacharya, J.)

(A.D.)