

Form No. J(2)

In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

M.A.T 1859 of 2024
IA No: CAN 1 of 2024

Rekha Mondal
Vs.
Uttam Patra and another

For the appellant	:	Mr. Malay Bhattacharyya Mr. Subhrajyoti Ghosh Ms. Sneha Mondal
For the State/respondents	:	Mr. Amitesh Banerjee, Snr.Adv. Mr. Tarak Karan
Heard on	:	23.12.2025
Judgment on	:	23.12.2025

Sabyasachi Bhattacharyya, J.:-

1. At the outset, a preliminary objection as to the maintainability of the appeal is taken on behalf of the State-respondents.
2. Learned senior counsel appearing for the State-respondents submits that the appeal is not maintainable, having been

preferred against an order whereby a Rule of Contempt was discharged.

3. By placing reliance on the language of Section 19 of the Contempt of Courts Act, 1971 (in short “1971 Act”), learned senior counsel submits that the said provision contemplates an appeal only against any order or decision to punish for contempt. As such, no appeal lies against an order discharging a contempt rule or dismissing a contempt application.
4. In support of such contention, learned senior counsel cites *D.N. Taneja v. Bhajan Lal*, reported at (1988) 3 SCC 26, and *State of Maharashtra Vs. Mahboob S. Allibhoy and another*, reported at (1996) 4 Supreme Court Cases 411, where *D.N. Taneja (supra)* was followed.
5. The proposition laid down therein was that Article 215 of the Constitution confers jurisdiction or power on the High Court to punish for contempt. The High Court can exercise its jurisdiction only by punishing for contempt. When the High Court, acquits the contemnor, the High Court does not exercise its jurisdiction for contempt, for such exercise will mean that the High Court should act in a particular manner, that is to say by imposing punishment for contempt.

6. Thus, it was reiterated that when the High Court erroneously acquits the contemnor of criminal contempt, it is not that the petitioner who is interested in maintaining the dignity of the court will be without any remedy but such remedy would lie under Article 136 of the Constitution of India before the Hon'ble Supreme Court.
7. While laying down such proposition, the Hon'ble Supreme Court proceeded on the premise that contempt is a proceeding between the contemnor and the court and the right of the petitioner is merely that of a complainant. The Hon'ble Supreme Court considered that the same might have been the justification for the Legislature consciously not providing any right of appeal against the acquittal of a person from a charge of contempt.
8. Learned senior counsel thus argues that, in the present case, by the impugned order dated July 26, 2024, the contempt Rule issued against the respondents was discharged. Hence, by applying the proposition laid down in the cited judgments as well as incorporated in Section 19 of the 1971 Act, the present appeal is not maintainable.
9. Learned counsel for the appellant controverts such submissions and draws the attention of the Court to the substantive portions

of the impugned order whereby valuable rights of the present appellant have been affected.

- 10.** Upon hearing learned counsel, we start at the genesis of the present appeal.
- 11.** By an order dated March 7, 2024, the learned Single Judge who passed the present impugned order directed that the Directorate of Youth Services, Government of West Bengal, shall engage the writ petitioner (present appellant) at any Block, Municipality or Corporation under the North 24 Parganas on a contractual basis for a period of two years on a monthly honorarium of Rs. 10,000/- within a period of two weeks from that date. The said order was amended on May 3, 2024 at the behest of the writ petitioner/present appellant, thereby incorporating into the original order dated March 7, 2024 a clause to the effect that the honorarium of Rs. 19,000/- is in terms of the Memo dated March 1, 2024 issued by the Additional Chief Secretary, Government of West Bengal, Finance (Audit) Department and accordingly the paragraph of the earlier order dated March 7, 2024 where the honorarium was recorded to be Rs. 10,000/- would stand corrected to read as Rs.19,000/-.
- 12.** Subsequently, the respondent having not complied with the order dated March 7, 2024, as modified on May 3, 2024, a

contempt application was taken out by the present appellant, upon which, in view of the alleged contemnor having not initially appeared, a Rule was issued, giving rise to WPCRC 112 of 2024, which was the subject of consideration on July 26, 2024 before the learned Single Judge, in which context the order impugned in the present appeal was passed.

- 13.** Notably, in the said order, the learned Single Judge did not stop at discharging the Rule but made certain adverse remarks against the petitioner/appellant herself, imposing costs on the basis of the such observations to the tune of Rs.1,100/- on the petitioner/appellant.
- 14.** The learned Single Judge, traversing beyond discharge of the Rule, went on to observe that an impression was given to the Court by the petitioner (present appellant) on March 7, 2024 that she was never engaged by the respondents. However, according to the learned Single Judge, it appeared from the documents submitted by learned counsel appearing for the alleged contemnor and statements made in the writ petition that the petitioner/appellant had duly been engaged as Volunteer by the alleged contemnor since the year 2015 and continued to receive remuneration as on the date of passing of the impugned order that is July 26, 2024.

- 15.** It was further observed that the petitioner (present appellant) cannot claim any more remuneration than any other persons similarly situated.
- 16.** The learned Single Judge also observed that the court had modified the quantum of remuneration made in the order dated March 7, 2024, on May 3, 2024, which appeared to have been obtained by misleading the Court. Consequentially, it was recorded that in terms of the records produced by the State on July 26, 2024, the remuneration bill for July, 2024, of thirty-eight persons similarly situated as the petitioner, namely, Rekha Mondal, it was found that a sum of Rs. 11,890/- was uniformly paid for such Volunteers; as such, the petitioner cannot claim any more than that.
- 17.** The learned Single Judge also noted that the incorrect and misleading submissions, in the perception of the learned Single Judge, made by the petitioner, were contumacious in nature, for which penal cost of Rs.1,100/- was imposed on the petitioner.
- 18.** Hence, it is evident from the impugned order itself that the learned Single Judge did not stop at discharging the Rule of contempt, but while hearing the Rule, travelled beyond the scope of the contempt application and also made further observations, in effect modifying his earlier order by stipulating that the

petitioner cannot claim any amount more than Rs. 11,890/- as opposed to Rs.19,000/- as previously observed in the parent order, as subsequently modified.

- 19.** Hence, in the impugned order, we find several components which directly and adversely affect the rights of the petitioner (present appellant), which were entirely beyond the scope of contempt jurisdiction.
- 20.** Thus, *prima facie*, although no appeal would lie within the limited conspectus of Section 19 of the 1971 Act, a Letters Patent Appeal would definitely be maintainable in view of a strong *prima facie* case having been made out by the appellant that the learned Single Judge traversed beyond the contempt jurisdiction by making adverse observations against the appellant and amending his earlier orders, which directly and adversely affected the rights of the present appellant.
- 21.** Hence, although an appeal under Section 19 of 1971 Act is not maintainable, the present appeal is definitely maintainable as a Letters Patent Appeal.
- 22.** In view of the impugned order affecting valuable rights of the petitioner (present appellant), it qualifies as a “judgment”, against which an appeal lies under Clause 15 of the Letters Patent for the High Court of Judicature at Fort William in

Bengal. As such, the present appeal against the said order is quite maintainable.

- 23.** Thus, the preliminary objection as to the maintainability of the appeal raised by the State-respondents is turned down and we hereby admit the appeal and take it up for hearing on merits, by holding that the same is maintainable before this Division Bench.
- 24.** The present appeal has been preferred against an order dated July 26, 2024, whereby a contempt rule bearing WPCRC 112 of 2024, issued against the present respondents, was discharged.
- 25.** While so discharging, the learned Single Judge made observations to the effect that when the initial orders, from which the contempt proceeding arose, were passed, an impression was given to the court that the petitioner (present appellant) was never engaged by the respondents.
- 26.** On such premise, it was further observed that having regard to the corrections obtained on May 3, 2024 by the petitioner and the misleading statements made on March 7, 2024, the court found contumacious conduct on the part of the petitioner/appellant herself.
- 27.** The court, accordingly, recorded its inclination to impose exemplary and penal costs against the petitioner/appellant in

that regard, but keeping in mind that the petitioner is a volunteer and receives a sum of Rs.11,890/- per month as salary, cost of only Rs.1,100/- was imposed.

- 28.** Learned counsel for the appellant argues that the learned Single Judge traversed beyond the contempt jurisdiction and reopened the merits of the previous orders, from which the contempt petition arose.
- 29.** It is submitted that such exercise, accordingly, was without jurisdiction in a contempt application.
- 30.** It is next argued that it would be evident from the first order passed by the learned Single Judge dated March 7, 2024 in the parent writ application bearing W.P.A 23126 of 2023, that it was observed by the learned Single Judge that the order impugned before the said court did not deal with the reason why the writ petitioner's name was not sponsored by the concerned Employment Exchange to the Bangla Yuba Kendra.
- 31.** However, it is submitted, that there was no recording in the said order as to any impression being given by the appellant to the effect that the appellant was never engaged by the respondents.
- 32.** It is further pointed out by learned counsel for the appellant that in the subsequent order modifying the previous order, dated

May 3, 2024, the respondents were also represented through counsel, in whose presence the modification order was passed.

- 33.** However, despite such presence, no objection was raised by the respondents to the effect that the petitioner/appellant had misled the court on the earlier occasion in any manner.
- 34.** That apart, it is argued that in the absence of any challenge either to the first order dated March 7, 2024 or the modification order dated May 3, 2024 passed in the writ petition, the said orders have attained finality.
- 35.** It is submitted that the learned Single Judge could not, without any challenge having been preferred against either of the said orders, in effect reverse the effect of the said orders, sitting in contempt jurisdiction.
- 36.** Learned senior counsel appearing for the respondents argues that at the end of the day, it is the impression of the learned Single Judge which counts insofar as what impression was given before the said court at the time of arguments.
- 37.** Learned senior counsel submits that it is not possible for the court, in any matter, to advert to the entire pleadings made in the writ petition. It is the arguments of the parties at the time of hearing of a matter on which premise the court generally passes orders.

- 38.** Thus, the observation in the impugned order to the effect that an impression was given to the court that the petitioner was never engaged by the respondents has to be seen from the perspective of the learned Single Judge.
- 39.** It is submitted that neither this court nor the parties are in a position to assess as to exactly what impression was actually given by the petitioner on the relevant date.
- 40.** Thus, it is submitted that there ought not to be any interference with such discretionary exercise by the learned Single Judge, particularly within the limited confines of an intra-court appeal.
- 41.** It is next argued by the respondents that in paragraph no.2 of the impugned order, the learned Single Judge had specifically considered the facts of the case.
- 42.** On such premise, in paragraph no.7 of the impugned order, the court observed that having regard to the corrections obtained by the petitioner/appellant on May 3, 2024 and the misleading submissions made on March 7, 2024, a contumacious conduct on the part of the petitioner was found.
- 43.** However, the said observations culminated in the learned Single Judge merely imposing costs on the petitioner.
- 44.** Thus, it is argued by the respondents that no rule of contempt was issued, nor was any proceeding initiated for contempt of

court, against the petitioner/appellant but merely costs were imposed.

- 45.** Even otherwise, it is submitted that no appeal lies generally against mere imposition of costs.
- 46.** Learned senior counsel further argues that from the materials on record, it would be evident that the petitioner proceeded on the basis that the petitioner was not engaged in the capacity of contractual employee by the respondent authorities, due to which in the order dated March 7, 2024, a direction was issued to the respondents to engage the writ petitioner/appellant on a contractual basis.
- 47.** However, such impression given by the appellant was belied by the application for modification of the appellant herself, from which it is evident that the appellant relied on a Government Circular, which enumerated the remuneration of a contractual employee to be Rs.19,000/- only on completion of five years from initial engagement, which was argued to be applicable to the writ petitioner/appellant.
- 48.** By such very argument, the petitioner/appellant obviously gave an impression to the court that the petitioner had been in engagement as a contractual employee, which is not the correct position of law.

- 49.** The arguments of the petitioner, thus, were contradictory, in the one breath the petitioner having claimed to be a mere volunteer and on the other, to be a contractual employee.
- 50.** Thus, there was sufficient basis for the learned Single Judge to come to the conclusion that the said Bench was misled by the petitioner/appellant.
- 51.** A copy of the application for appropriate order (read modification), bearing CAN 1 of 2024, which was the stimulus for the second order dated May 3, 2024, is also handed over by the appellant to us along with its annexures.
- 52.** Upon carefully considering the rival contentions of the parties, we find that the admitted factual position is that initially the petitioner/appellant took a stand that the appellant, despite being recorded in the Employment Exchange, was not given any permanent appointment.
- 53.** The first writ petition, bearing WPA 7797 of 2023, was filed on such premise, alleging that a representation in that regard was given by the petitioner but was not considered.
- 54.** In the order disposing of the first writ petition, it was clearly recorded by the then learned Single Judge that the writ petitioner was engaged on temporary and contractual basis as a volunteer for a period of two years.

- 55.** It was further observed that the writ petitioner had prayed for being appointed to any suitable post in regular employment commensurate to her qualifications, upon which the learned Single Judge directed the appropriate authority to consider the representation of the petitioner dated November 23, 2022 seeking regular employment.
- 56.** Pursuant to such direction, by a reasoned order dated June 13, 2023, the Senior Special Secretary & Ex-officio Director and Member Secretary of the Bangla Yuba Kendra came to the conclusion that the Additional Director had stated that volunteers are engaged under the scheme of Bangla Yuba Kendra in all Blocks, Municipalities, Notified Areas and also Corporations to promote different activities of students and youth in West Bengal.
- 57.** It was further recorded in the reasoned order that they were initially engaged for two years, but as the scheme was continuing, their appointment had been renewed every year, after getting approval of the Finance Department.
- 58.** The Member Secretary further went on to observe that however, the authorities had initiated a proposal for giving the status of contractual Group-D to the volunteers and giving other consequential benefits to them.

- 59.** Thus, from the said reasoned order dated June 13, 2023, it is evident that a distinction was drawn by the respondents themselves between volunteers and contractual Group-D employees by observing that a proposal was initiated for giving the volunteers the status of contractual Group-D staff and other consequential benefits.
- 60.** It is the said reasoned order which was under challenge in the first writ petition at the behest of the petitioner/appellant before the learned Single Judge who ultimately passed the order impugned herein.
- 61.** In the second the second writ petition, which is the genesis of the present dispute, the prayer of the writ petitioner/appellant was to set aside the reasoned order on the ground that it did not consider permanent employment being given to the petitioner.
- 62.** The learned Single Judge, in the first order dated March 07, 2024 passed in the second writ petition bearing WPA 23126 of 2023, observed as much by mentioning in the order that the impugned order does not deal with the reason why the writ petitioner's name was not sponsored by the concerned Employment Exchange to the Bangla Yuba Kendra.
- 63.** It is on such premise that the learned Single Judge directed the Directorate of Youth Services, Government of West Bengal to

engage the writ petitioner at any block, municipality or corporation under the North 24-Parganas on a contractual basis for a period of two years on a monthly honorarium of Rs. 10,000/- within a period of two weeks from that date.

- 64.** The said direction was evidently in consonance with the reasoned order passed by the respondent authorities dated June 13, 2023.
- 65.** Hence, it cannot be said that the reasoned order was not before the learned Single Judge at the first instance when the order dated March 07, 2024, disposing of the writ petition, was passed, since, in paragraph no. 3 thereof, the learned Single Judge himself observed that he had looked into the impugned order (that is, the said reasoned order), by stating that the impugned order does not deal with the reason why the writ petitioner's name was not sponsored by the concerned Employment Exchange.
- 66.** Since the reasoned order itself categorically indicates that the petitioner was engaged as a volunteer and the upliftment of such status to that of contractual Group-D employee and consequential benefits was under consideration before the said authority which passed the reasoned order, the fact of the petitioner having already been engaged as a volunteer was

adverted to by the learned Single Judge and there was no suppression on the part of the petitioner/appellant in that regard.

- 67.** That apart, the second writ petition was initiated against the reasoned order, which was itself passed pursuant to a still-previous order dated April 24, 2023 by a learned Single Judge wherein it was categorically observed also that writ petitioner was engaged on temporary and contractual basis as a volunteer for a period of two years. Even the writ petition itself mentioned such fact; hence, the finding of the learned Single Judge in the impugned order to the effect that it further appears from the documents submitted by learned counsel appearing for the alleged contemnors *and the statements made in the writ petition* that the petitioner has duly been engaged as volunteer by the alleged contemnors since the year 2015 and continues to receive remuneration as on day.
- 68.** As such, it is reflected in the impugned order itself that the writ petition categorically mentioned that the petitioner had duly been engaged as volunteer by the alleged contemnors since the year 2015.
- 69.** Thus, the finding in the impugned order to the effect that the petitioner had suppressed the factum of engagement of the

petitioner by the respondents is belied by and contradictory to the recording of facts in paragraph no. 2 of the impugned order itself.

- 70.** That apart, the learned Single Judge, in the impugned order, observed in paragraph no. 7 that the contumacious conduct of the petitioner also comprised of the corrections obtained on May 03, 2024.
- 71.** In the application bearing CAN 1 of 2024, on the basis of which the correction order was passed, it was clearly mentioned that in the Memorandum dated March 01, 2024, the question of enhancement of remuneration of the casual/contractual workers engaged in various Government establishments had been under active consideration of the Government for some time past.
- 72.** The remuneration chart given therein was also in respect of the “above categories of workers”, that is, casual/contractual workers.
- 73.** Hence, there was *bona fide* scope of doubt as to whether the said Memorandum covered both contractual and casual workers and whether volunteers came within the ambit of casual workers, as opposed to contractual workers.
- 74.** Thus, even in the application for correction, we do not find any scope of conscious misleading by the petitioner/appellant.

- 75.** Moreover, we cannot deny the fact that the respondents were represented in court when the second (modification) order dated May 03, 2024 was passed by the learned Single Judge.
- 76.** Despite such appearance, not a single whisper was made by the respondents as to the said Memorandum and the remuneration enumerated therein not being applicable to the petitioner/appellant or that the petitioner had never been engaged by the respondents or was engaged in contractual capacity previously.
- 77.** In view of no challenge having been preferred either against the original order dated March 07, 2024 or the modification order dated May 03, 2024, the said orders attained finality on the date when the impugned order was passed.
- 78.** Another aspect of the matter is also to be noted.
- 79.** It is well-settled that in the contempt jurisdiction, the Court does not sit in judgment over the parent order and there is little or no scope of passing any orders on merits by reopening the parent order passed by the Court.
- 80.** However, in the impugned order, the learned Single Judge not only observed that misleading statements were made on March 07, 2024, which is not reflected in the order dated March 07, 2024, the learned Single Judge also came to the conclusion in

the impugned order that the petitioner cannot claim any more remuneration than any other persons similarly situated.

- 81.** It was also observed that in terms of the records produced by the State before the said Court, the remuneration bill for July, 2024 of 38 persons, purportedly similarly situated as the petitioner, indicated that a sum of Rs. 11,890/- was uniformly paid to all volunteers and that the petitioner could not claim more than that.
- 82.** We take note of the fact that from the recording of facts in the impugned order itself, it is evident that the purported records, on the basis of which the order was passed, were produced only on the day of the said hearing before the court and the learned Single Judge, without granting any opportunity to the petitioner/appellant to controvert or deal with the contents thereof or make submissions with regard to such records, went on to observe that the petitioner cannot claim more than Rs.11,890/-.
- 83.** In effect, even without any challenge being preferred to the parent order, as modified, the learned Single Judge, sitting in contempt jurisdiction, sat over judgment on his own order and reopened the same, which is entirely *de hors* the jurisdiction of the court while hearing a contempt application.

- 84.** That apart, in paragraph no. 7 of the impugned order, contrary to the submissions made by the respondents, the learned Single Judge recorded his inclination to impose exemplary and penal costs against the petitioner on the very premise that misleading submissions were made by the petitioner which amounted to contumacious conduct on the part of the petitioner herself.
- 85.** The phrase “in this regard”, which suffixes the finding that the court was inclined to impose exemplary and penal costs against the petitioner, ties up such imposition of costs to the perceived contumacious conduct on the part of the petitioner by making apparently misleading submissions on March 07, 2024. Thus, the ‘costs’ imposed were ‘penal’ in nature, flowing from the previous observation that the action of the petitioner was contumacious.
- 86.** Even otherwise, such finding of contumacious conduct by the petitioner was premature, since neither was any Rule issued nor any explanation sought from the petitioner before coming to the final conclusion that there was contumacious conduct on the part of the petitioner.
- 87.** The imposition of penal costs was a direct corollary of such finding that there was contumacious conduct on the part of the petitioner.

- 88.** Thus, the contempt proceeding was turned on its head and whereas a contempt on the part of the respondents was alleged in the Rule issued against the respondents, while disposing of the same, the learned Single Judge, without affording any opportunity to the petitioner to explain her so-called contumacious conduct, directly arrived at the conclusion that there was contumacious conduct on the part of the petitioner.
- 89.** Such procedure, adopted by the learned Single Judge, with deepest respect, is *de hors* the procedure to be followed in any contempt proceeding, the consequence of which is serious, stigmatic and of a penal nature.
- 90.** Also, we reiterate that we do not find from the observations of the learned Single Judge in his original order dated March 07, 2024 anything to remotely show that any attempt was made by the petitioner/appellant to give an impression that the petitioner was not engaged by the respondents at any point of time.
- 91.** Paragraph no. 3 of the said order, on the contrary, reflects that the learned Single Judge dealt with the impugned order which was the reasoned order by the authority, where the petitioner's engagement as volunteer was categorically recorded.

- 92.** Having looked into the order, it cannot be said that the learned Judge was oblivious of the previous engagement of the petitioner.
- 93.** Even in paragraph no.2 of the impugned order itself, as mentioned earlier, the learned Single Judge holds that from the statements made in the writ petition as well as the documents submitted by the alleged contemnors, it appeared that the petitioner had duly been engaged as volunteer of the alleged contemnor since the year 2015.
- 94.** Thus, in the very same order where it was recorded that the writ petition itself disclosed the engagement of the petitioner as volunteer, the learned Single Judge, in the latter portion, came to the contradictory finding that the petitioner had made misleading submissions on March 7, 2024.
- 95.** Such conclusion is mutually contradictory with the observations made in paragraph no.2 of the impugned order itself.
- 96.** In view of the above, we find that the impugned order is bad in law and on facts, primarily on two counts.
- 97.** First, contumacious conduct on the part of the petitioner was decided without initiating any proceeding for contempt against the petitioner/appellant and/or even giving any opportunity to the petitioner/appellant to explain her so-called conduct,

imposing exemplary and “penal” costs against the petitioner only on the premise of such purported contumacious conduct.

- 98.** Secondly, the learned Single Judge reopened the parent order on the basis of certain documents and records produced by the contemnor/State authorities before the court on the day of the order itself, thereby virtually sitting in judgment over its previous order without giving any opportunity to the writ petitioner/appellant to controvert such documents or records, which were the very basis of the impugned order, and/or to explain the stand of the writ petitioner on such documents.
- 99.** In view of the above observations, we are of the opinion that the impugned order is not tenable in the eye of law and was passed *de hors* jurisdiction and as such is not sustainable in law.
- 100.** Accordingly, MAT 1859 of 2024 is allowed on contest, thereby setting aside the impugned order dated July 26, 2024 passed in WPCRC 112 of 2024 in connection with WPA 23126 of 2023.
- 101.** Consequentially, the Rule of contempt is revived and the learned Single Judge is requested to take up the same for hearing from the stage which it had reached before passing of the impugned order.

- 102.**It is made clear that while so hearing, none of the observations made above shall adversely affect the rights of the parties on merits in the contempt rule.
- 103.**CAN 1 of 2024 is consequentially disposed of.
- 104.**There will be no order as to costs.
- 105.**After the above judgment is passed, learned senior counsel appearing for the respondents seeks a stay of the above judgment for a period of three months.
- 106.**Keeping in view that arguable questions may be involved, we stay the operation of the above judgment/order for a period of three months from date to enable the respondents to test the above judgment before a superior forum.
- 107.**There will be no order as to costs.
- 108.**Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)

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