

15
25.6.2025
Ct. No. 8
SB

MAT 1996 of 2024
CAN 1 of 2025 (application for modification)
CAN 2 of 2025 (Section 5)

Smt. Dipali Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Bhaskar Prasad Vaisya, Ld. AGP
Mr. Mrinal Kanti Ghosh ... for the State
Mr. Suman Dey .. for D.P.P.G.

CAN 2 of 2025

1. There is a delay of 15 days in filing the appeal.
2. We are satisfied with the explanation offered for not being able to file the appeal within the period of limitation. The delay of 15 days is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

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4. The appellant is not represented.
5. The appeal is arising out of an order dated 23.8.2024 by which the contempt application was disposed of by recording compliance of the order. This order is under challenge. The order of satisfaction recorded by the Court of Contempt jurisdiction is not appealable order under Section 19 of the Contempt of Court 1971. Similar matters we have disposed of on 18.6.2025 in F.M.A.425 of 2025 [Chhabi Ghatak vs. The State of West Bengal & Ors.] with CAN 1 of 2025 in which we

have granted liberty to the appellant / petitioner to challenge the basis of the order by which the persons similarly received the higher pay scale. The order recording compliance in a contempt cannot operate *res judicata* if the writ petitioner challenge the basis of the order by which the benefit of pay fixation was denied by the writ petitioner whereas others have been benefited by such pay fixation or such benefit was extended to other similarly placed persons.

6. Accordingly, the order discharging the rule in a contempt jurisdiction cannot be considered as a decision on merits of the dispute. However, the Court is not precluded in finding out whether it was an attempt to bypass the order by the authority concerned while giving effect to the order passed by the Court.
7. On such consideration, we are not inclined to interfere with the order passed by the learned Single Judge. However, the liberty as expressed in this order shall remain and it would be open for the writ petitioner to challenge the basis of such pay fixation and denial of relief extended to other similarly placed persons.
8. The appeal and the application are disposed of.

(Soumen Sen, J.)

(Smita Das De, J)