

05.08.2025
Item No.4
Ct. No.01
RP/SM

CPAN/977/2025
in
FMA/208/2025

**TAPAN BHATTACHARJEE, BENCH CLERK-II,
JUDICIAL MAGISTRATE'S COURT JHARGRAM
VS.
SANJOY KUMAR DAS LD. DIST. JUDGE
PASCHIM MIDNAPORE**

Mr. Partha Sarathi Bhattacharya, Sr. Adv.
Mr. Debdutta Raha, Adv.

...For the Applicant

Mr. Swapan Kr. Datta, A.G.P./Sr. Adv.
Ms. Munmun Tewary, Adv.
Mr. Sanatan Panja, Adv.

...For the Contemnor

Mr. Soumajit Majumder, Adv.

...For the High Court
Administration

1. This contempt application has been filed alleging wilful disobedience of the order and direction in FMA 208 of 2025 dated 11th March, 2025. The said appeal arose out of an order passed in WPA 8454 of 2008. Substantial part of the findings rendered by the learned Single Bench was affirmed and we found that there was no reason to interfere with the order passed by the learned Single Bench. However, the observations/findings rendered by the learned Single Bench in paragraph 9 of the order passed in the writ petition dated 12th November, 2024, was modified to the following effect:-

“The liberty, which has been granted to the writ petitioner in paragraph 9 of the impugned order is slightly modified by observing that it will be open to the appellant to submit a representation to the disciplinary authority/District Judge for appropriate orders regarding the period of unauthorised absence and if done so, the same shall be considered in accordance with law.”

2. Thus, the findings in paragraph 9 rendered by the learned Single Bench stands substituted by the above reasons. If that is so then the learned District Judge was required to pass appropriate orders on the representation which was directed to be submitted by the applicant/writ petitioner. The applicant/writ petitioner submitted the representation but, however, the representation was rejected on the ground that the learned District Judge has no authority within the ambit of law to allow the representation made by the applicant/writ petitioner. Though it is alleged that the respondent committed a contempt, we are of the view that the action initiated by the learned District Judge cannot be construed to be a wilful disobedience so as to be construed as committing a contempt. Therefore, to that extent, we do not agree with the applicant/writ petitioner.
3. Be that as it may, we are of the view that appropriate revised order should be passed by the learned District Judge by taking note of all factors which have been pleaded including the fact that the

applicant/writ petitioner submitted a representation on 10th December, 2007, which is found at page-99 of the annexures in the contempt application, addressed to the learned Additional Chief Judicial Magistrate, Jhargram. The subject in the said letter 'Prayer for grant of leave'. In the reference column the communication of the learned Additional Chief Judicial Magistrate vide an Order No.189 dated 26th November, 2007, has been referred to. The applicant/writ petitioner said that he faced a bus accident on 12th September, 2007, when he was going to attend his official duty. However, on and from 14th September, 2007, he could not be able to attend the official duty due to severe back pain. He was examined by an Orthopedic doctor at Midnapore town and thereafter, he proceeded to Cuttack to get treatment under one Dr. T. Rao on 27th September, 2007 and according to the advice of both the doctors, he was compelled to take bed rest. Further, the applicant/writ petitioner stated that he has brought this fact to the notice of his office and he is not in a position to stand and walk as the doctor advised him to take bed rest. In this circumstances, the applicant/writ petitioner requested to be excused for his absence from duty by granting either special disability leave in terms of Clause (III) of Rule 196 or extraordinary leave in terms of Rule 175 under West

Bengal Service Rules Part-I. Photocopies of medical prescription and medical unfit certificate are also enclosed with the representation.

4. This appears to have not been properly appreciated by the department while taking a decision which order was impugned in the writ petition. In any event, since we are of the view that the learned District Judge should pass a fresh order and while doing so, the learned District Judge shall also take into consideration the request made by the applicant/writ petitioner vide his representation dated 10th December, 2007, requesting for grant of either special disability leave or extraordinary leave. Even thereafter, another representation was made to the learned District Judge on 11th March, 2008, for grant of permission to join in service after leave wherein it has been stated that he was not permitted to join duty by the learned Additional Chief Judicial Magistrate, Jhargram, without the permission of the learned District Judge and, therefore, prayed for appropriate order from the learned District Judge. This factor shall be borne in mind and the learned District Judge shall also consider as to whether service of the applicant/writ petitioner was regularised much earlier and take a holistic approach of the entire matter and pass fresh orders as expeditiously as possible, preferably within a

period of four weeks from receipt of server copy of this order.

5. Accordingly, the contempt application is disposed of.
6. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]