



2025:DHC:1282-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 136/2025 & CM APPL. 11147/2025, CM APPL. 11148/2025

THE GENERAL MANAGER, NORTHERN RAILWAYS

.....Appellant

Through: Ms. Anushkaa Arora, Advocate.

versus

MRS. HARLEEN KAUR

.....Respondent

Through: Mr. Sahib Gurdeep Singh, Mr.
Siddhant Rai Sethi and Mr. Kustubh
Singh, Advocates.

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Date of Decision: 24th February, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J : (ORAL)

1. Heard the learned counsel for the parties.
2. This intra-Court appeal seeks to challenge the judgment dated 20.01.2025 passed by the learned Single Judge, whereby the petition filed by the appellant-petitioner under Article 227 of the Constitution of India has been dismissed which was preferred against orders dated 20.12.2023 and 30.10.2024 passed by the National Consumer Disputes Redressal Commission (hereinafter the *National Commission*) in Appeal no.A/643/2023 and Review Petition no.1356/2024 respectively.



3. The delay in filing the appeal under the Consumer Protection Act, 2019 was not condoned and the appeal filed by the appellant-petitioner was dismissed on that count.
4. Learned Single Judge while dismissing the petition filed by the appellant-petitioner under Article 226 of the Constitution of India has observed that no interference in the orders passed in any Tribunal/Authority under Article 226/227 of the Constitution of India will be permissible unless the order appears to be without jurisdiction or it suffers from any perversity.
5. The first and foremost question before this Court in this appeal is as to whether instant appeal instituted under clause 10 of the Letters Patent Appeal is maintainable.
6. Clause 10 of the Letters Patent is extracted hereunder:

“10. And We do further ordain that an appeal shall lie to the said High Court of Judicature at Lahore from the judgement (not being a judgement passed in the exercise of appellate jurisdiction in respect of a decree or order made in the exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court, and not being an order made in the exercise of revisional jurisdiction, and not being a sentence or order passed or made in the exercise of power of superintendence under the provisions of Section 107 of the Government of India Act, or in the exercise of criminal jurisdiction) of one Judge of the said High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, and that notwithstanding anything hereinbefore provided an appeal shall lie to the said High Court from a judgement of one Judge of the High Court or one Judge of any Division Court, pursuant to Section 108 of the Government of India Act, made on or after the first day of February, one thousand nine hundred and twenty-nine in the exercise of appellate jurisdiction in respect of a decree or order made in exercise of appellate jurisdiction by a Court subject to the superintendence of the said High Court where the Judge who passed the judgement declares that the case is a fit one for appeal, but that the right of appeal from other judgements of Judges of the said High Court or of such Division Court shall be to Us, Our Heirs or Successors in Our or Their Privy Council, as hereinafter provided.”



7. A bare perusal of the provisions as quoted above would reveal that Letters Patent Appeal would not lie against a judgment passed by the learned Single Judge in exercise of appellate jurisdiction or against an order made in exercise of or against an order made by the Court which is subject to superintendence of this Court.

8. The jurisdiction available to this Court under Article 227 of the Constitution of India is primarily in the nature of superintendence and accordingly the Letters Patent Appeal would not lie in the instant matter.

9. Learned counsel for the appellant-petitioner has placed reliance upon a full Bench judgment of Hon'ble High Court of Bombay, ***Advanioerlikon Ltd., vs. Machindra Govind Makasare & Ors.; AIR 2011 Bombay 84 (FB)***. It has been stated on the basis of the said judgment that merely because a petition decided by learned Single Judge is styled as a petition under Article 227 of the Constitution of India, it would not make such a petition decided in exercise of the said power of superintendence under Article 227 of the Constitution, if the petition is otherwise maintainable under Article 226 of the Constitution of India.

10. We are afraid, the aforesaid judgment does not help the cause of the appellant in any manner for two reasons. Firstly, any order passed by the National Commission is appealable under Section 67 of the Consumer Protection Act, 2019 before Hon'ble Supreme Court and as such on the availability of the said statutory appellate remedy, a petition under Article 226 of the Constitution of India may not be entertained. And secondly, so far as the judgment rendered by Hon'ble High Court of Bombay is concerned, the said judgment was rendered in the matter emanating from the orders



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passed by the Industrial Court under the Bombay Industrial Relations Act, 1946 and under the scheme of the said Bombay Act, the remedy of appeal/revision etc. is not provided and, therefore in such a matter, even if a petition is styled as a petition under Article 227 of the Constitution of India, the same could be considered and decided by the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

11. For the reasons aforesaid, the Letters Patent Appeal is not maintainable and is hereby dismissed.

12. Pending applications also stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

FEBRUARY 24, 2025

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