

05.01.2026
Court No. 02
Item No.42
(Suvendu)

WPA 7269 of 2025

MINTU MONDAL
-Versus-
UNION OF INDIA & OTHERS

Mr. Asim Hati
Mr. Debabrata Mondal
Ms. Sreetama Neogi
Ms. Nandini Sharma
Mr. Antariksha Karmakar
Mr. Chinmoy Mukherjee
.....for the petitioner

Mr. Debajyoti Deb
Mr. Pradip Kumar Kundu
.....for the UOI

1) In terms of order dated 6th November, 2025 copy of the writ petition being WPA 14868 of 2016 (Mintu Mondal Vs. Union of India & Ors.) is placed before this Court and same is taken on record.

2) Petitioner has prayed for release of salary for the period when the petitioner could not serve pursuant to removal order dated 10th August, 2015. Action taken by the respondent authority thereby removing the petitioner from service was questioned by the petitioner in his earlier writ petition being WPA 14868 of 2016 which was disposed of by a coordinate Bench vide judgment dated 5th July, 2017. By said

judgment dated 5th July, 2017 concerned respondent authority was directed to revisit the claim of the petitioner in the light of the beneficial provisions for utilization of petitioner's services in jobs where public safety issues were not involved. Concerned respondent authority was directed to complete exercise within a specific time. Against this judgment dated 5th July, 2017 an intra-court appeal was preferred by the respondent authorities being FMA 1798 of 2018 (Union of India and Ors. Vs. Mintu Mondal) and same was disposed of vide judgment dated 30th June, 2022. Judgment delivered by the coordinate Bench on 5th July, 2017 was not interfered with by the Hon'ble Division Bench. After dismissal of appeal vide judgment dated 30th June, 2022 Commandant, 63 Battalion, Border Security Force completed the exercise in terms of the direction as contained in judgment dated 5th July, 2017, consequently petitioner was reinstated with effect from 29th December, 2022.

3) Prayer is made in the present writ petition that on adjusting extra-ordinary leave for the period when the petitioner could not serve pursuant to removal order dated 10th August,

2015 service benefits may be extended to the petitioner.

4) It appears that after the respondent authorities' appeal was dismissed by the Hon'ble Division Bench vide judgment dated 30th June, 2022 concerned respondent authority took decision on 15th December, 2022 thereby permitting the petitioner to be reinstated. However, from the submissions made on behalf of the petitioner it is found that petitioner was not paid service benefits during the period when he could not serve due to order of removal on adjusting leave which was available to the petitioner.

5) Considering the prayer in the writ petition being WPA 14868 of 2016 it is found that under prayer 'c' petitioner prayed for full back wages on setting aside order of removal. Therefore, it was one of the issues before the coordinate Bench in connection with writ petition being WPA 14868 of 2016. The coordinate Bench in the judgment dated 5th July, 2017 observed that petitioner shall be entitled to continuity in service and regularization of his benefits in accordance with law. In spite of prayer was made in the writ petition being WPA 14868 of 2016 to pay

back wages same was not allowed by the coordinate Bench and regarding service benefits coordinate Bench observed, *“The petitioner shall be entitled to continuity in service and regularization of his benefits in accordance with law.”*

6) Moreover, it needs to be taken into consideration that petitioner did not work during the period for which petitioner is seeking service benefits. Therefore prayer of the petitioner to pay salary and other emoluments for the period when he could not serve due to order of removal dated 10th August, 2015, is not allowed.

7) However, the period during which petitioner could not serve due to order of removal dated 10th August, 2015 needs to be regularized and said period shall not be treated as break in service for the purpose of calculating benefits at the time of release of retiral dues.

8) With the aforesaid clarification, writ petition stands disposed of.

9) There shall be, however, no order as to costs.

10) Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)