

WPST 37 of 2024

(Dr. Supriyo Das Vs. The State of West
Bengal & Ors.)

Mr. Sagar Bandyopadhyay
Mr. Khairul Alam

.... For the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Sangeeta Roy

..... For the respondents

The present writ petition has been preferred challenging an order dated 31st January, 2024 passed by the learned Tribunal in the original application being OA No. 94 of 2023. By the said order, the original application was disposed of directing the respondent no. 3 herein to examine the petitioner's claim for refund and to take a final decision as per rules within three months from the date of communication of the order.

During pendency of the writ petition, an order dated 28th February, 2024 passed by the respondent no. 3 was communicated to the petitioner. The same has been brought on record by filing a supplementary affidavit affirmed on 20th March, 2024. The original application has also been brought on record by a supplementary affidavit affirmed on 6th May, 2024. Copies of the same have also been served upon the respondents.

Mr. Bandyopadhyay, learned advocate appearing for the petitioner strenuously argues the petitioner was initially appointed to the post of Demonstrator in the Department of

Biochemistry at College of Medicine, Sagore Dutta Hospital on 18th December, 2012. Such appointment was confirmed on 18th December, 2015. Thereafter, he was placed as Trainee Reserve for the session 2016-2019 for pursuing the course of MS (Gynae & Obst) at Medical College Kolkata *vide* memo dated 8th July, 2016. As the petitioner was not in a position to continue with the post graduate course, he submitted a representation to the respondent no. 3 on 18th July, 2017 for cancellation of T.R. placement and to allow him to resume his duties. The respondents ought to have allowed the petitioner to resume his duties at Sagore Dutta Hospital upon regularizing the period spent on Trainee Reserve against his admissible leave in consonance with the Trainee Reserve Rules, 2015 (hereinafter referred to as the 2015 Rules). The said issue has not been considered in the order dated 28th February, 2024.

He contends that by the order dated 28th February, 2024 a penalty of recovery of an amount of Rs.15,00,000/- has been imposed upon the petitioner without even granting him an opportunity of hearing. Such infirmity in the decision making process warrants interference of this Court.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents however, denies and disputes the contention of the petitioner and submits that the order dated 28th February, 2024 is a reasoned one and has been passed by the respondent no. 3 taking into consideration the provisions of the 2015 Rules. The learned Tribunal is the Court of first instance and any grievance

against the said order needs to be ventilated before the learned Tribunal.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, during pendency of the writ petition and in compliance with the order impugned in the present writ petition, the petitioner's claim has been considered and a final order has been passed by the respondent no. 3 on 28th February, 2014. The said order has given rise to a fresh cause of action and in view thereof, no interference is called for in the present writ petition and the petitioner's prayer is refused.

It is, however, made clear that the petitioner would be at liberty to challenge the said order dated 28th February, 2024 before the learned Tribunal, in accordance with law.

With the above observations and directions, the present writ petition is disposed of.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Supratim Bhattacharya, J.) (Tapabrata Chakraborty, J.)