

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

**Case No. –MA 74 of 2021 [CCP 103 of 2019]**

Sarkari Karmachari Parisad & Others - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order <u>01</u> 26.08.2021	For the Applicants  For the State Respondent	: Mr. G. Singh, Ld. Advocate. : Mr. G.P. Banerjee, Ld. Advocate.
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The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24<sup>th</sup> December, 2020 and 456-WBAT/2J-15/2016 dated 16<sup>th</sup> July, 2021 issued in exercise of the powers conferred under Section 6 (5) of the Administrative Tribunals Act, 1985.

The instant MA has been filed praying for listing of the CCP and hearing thereof on priority basis in an early date as against the order passed in OA-1231 of 2016.dated 08.08.2019, wherein this Tribunal had observed and directed that the issue of payment of Dearness Allowances to the applicants as State Government Employees would be decided in terms of the judgment and order dated 26.07.2019 passed by the Tribunal in OA-1154 of 2016. The counsel for the applicants have further submitted that against the order dated 26.07.2019 passed in OA-1154 of 2016, the respondent authorities had approached the Hon'ble High Court, Calcutta in WPST No. 102 of 2020, which is still pending before the Hon'ble High Court, Calcutta. However, the state respondents have not filed any writ petition against the order dated 08.08.2019. Since this Tribunal in their order dated 08.08.2019 had already decided that the case of applicants would be abided by the order passed in OA-1154 of 2016 dated 26.07.2019, therefore, the applicants had approached the Hon'ble High Court, Calcutta in CAN No. 1 of 2020 (Annexure-A9) for addition of party, which was disposed of by the Hon'ble High Court, Calcutta, vide order dated 20.07.2021, observing that as contempt petition is pending before this Tribunal and in absence of any writ application being filed before the Hon'ble High Court, Calcutta, challenging the order dated 08.08.2019, the Tribunal may proceed with the contempt application. However, the application made by the applicants for

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addition of party was not entertained on the aforementioned grounds.

Therefore, the counsel for the applicants has prayed for early hearing of the contempt petition.

However, the counsel for the contemnor respondents has submitted that this Single Bench should not hear the contempt petition as the order dated 08.08.2019 was passed by the Division Bench. Therefore, Single Bench cannot hear any contempt petition arising out of the said order. The counsel for the respondents secondly has submitted that since WPST No. 102 of 2020 is still pending before the Hon'ble High Court, Calcutta challenging the order dated 26.07.2019 passed in OA-1154 of 2016 on the self-same cause of action, therefore, the contempt petition should not be heard on priority basis. The counsel for the respondent has submitted that WPST No. 102 of 2020 is due to be heard on 31.08.2021. Since in order dated 08.08.2019, the Division Bench of this Tribunal has already opined that the applicants case would be abide by the decision passed in OA-1154 of 2016 dated 26.07.2019. Therefore, until and unless the aforesaid WPST No. 102 of 2020 would be disposed of, the applicants could not get any benefit out of that.

The counsel for the applicants has drawn my attention to the order dated 20.7.2021 passed in CAN No. 1 of 2020 arising out of CCP-103 of 2019 and has submitted that they had approached the Hon'ble High Court, Calcutta for addition of party in the said writ petition. However, it was not entertained on the ground that no writ petition was filed by the state respondent against the order dated 08.08.2019. Further one contempt petition being CCP-103 of 2019 is pending before this Tribunal and the Tribunal may proceed with the said contempt petition. Therefore, the submission of the state respondent has no bearing in the instant MA.

Heard both the parties and perused the records. The Division Bench of

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this Tribunal had disposed of the OA-1231 of 2016 with the following order :

**“The applicants have prayed for direction upon the respondents for grant of Dearness Allowance in conformity with the policy adopted by the Central Government for payment of Dearness Allowances to its employees.**

**Having heard Ld. Counsel representing both parties, we are of the view that the issue of payment of Dearness Allowance to the applicants as state government employees will be decided in terms of the judgment and order passed by us in OA-1154 of 2016 which was disposed of on 26.07.2019.**

**With the above observation, the original application is disposed of.”**

Admittedly, against the said order, no writ petition has been filed before the Hon’ble High Court, Calcutta till date. However, one writ petition against the order dated 26.07.2019 passed in OA-1154 of 2016 was filed (WPST No. 102 of 2020). Therefore, the applicants have approached the Hon’ble High Court, Calcutta, whereby the Hon’ble High Court, Calcutta by their Order dated 20.07.2019 while disposing of CAN No. 1 of 2020 (WPST No. 102 of 2020) had observed interalia :

**“This is an application for addition of parties. The applicants filed an original application before the West Bengal Administrative Tribunal being OA No. 1231 of 2016 (Sarkari Karmachari Parisad and Ors. vs. The State of West Bengal & Ors.). The said application was disposed of in terms of the judgment and order passed by the Ld. Tribunal in OA No. 1154 of 2016 decided on July 26, 2019. The present applicants have filed an application for contempt for non-implementing the order passed on August 8, 2019.**

**The Id. Counsel for the applicants has submitted that before the Id. Tribunal it is being contended that the writ petition is pending before this Court against the order passed in OA No. 1154 of 2016 decided on July 26, 2019. There cannot be any doubt that in the event this Court decides the matter in absence of the present applicants it is likely to cause prejudice to the present applicants as they are the beneficiaries of the order dated July 26, 2019 in OA No. 1154 of 2016. However, the order dated August 8, 2019 has not been challenged before us.**

**In view of the fact that the contempt application is pending and in absence of any writ application being filed before us challenging the order of August 8, 2019, the Tribunal may proceed with the contempt application.**

**Under such circumstances, we do not feel it necessary to add the applicants in the application.**

**The application being CAN 1 of 2020 is accordingly disposed of.”**

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From the perusal of the aforesaid order of the Hon'ble High Court, Calcutta, it is clear that the Hon'ble High Court, Calcutta has already observed that no writ petition has been filed against the order dated 08.08.2019, whereas one contempt petition is pending before this Tribunal and the Tribunal may proceed with the contempt petition also. Therefore, the contention of the state respondent that during the pendency of the aforesaid WPST No. 102 of 2020, this Tribunal could not hear the contempt petition is not acceptable. Since the Hon'ble High Court, Calcutta had observed and opined that the Tribunal may proceed, therefore, I hear the instant MA.

It is noted that the case of the applicants would be guided by the judgement dated 26.07.2019 passed in OA-1154 of 2016 against which WPST No. 102 of 2020 has been filed and it is due to be heard on 31.08.2021 as communicated by the counsel for the applicants. Therefore, I am of the opinion that the matter can be adjourned to further date as even if the contemnor has to comply with the order dated 08.08.2019, the said order would be covered by the outcome of the WPST No. 102 of 2020.

Accordingly, the MA is **disposed of**.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

SS/CSM

Mrs. URMITA DATTA (SEN)  
MEMBER (J)