

**(2008) 12 CAL CK 0031**

**Calcutta High Court (Port Blair Bench)**

**Case No:** M.A.T. No. 014 of 2008

Shri S. Sivakumar

APPELLANT

Vs

Union of India and Others

RESPONDENT

**Date of Decision:** Dec. 8, 2008

**Hon'ble Judges:** Pranab Kumar Deb, J; Jayanta Kumar Biswas, J

**Bench:** Division Bench

**Advocate:** P.S. Biswas and Mr. Arul Prasanth, for the Appellant; Anjili Nag, for the Respondent

### **Judgement**

Jayanta Kumar Biswas, J.

The petitioner in WP No. 007 of 2008 has filed this appeal feeling aggrieved by the order dated April 02, 2008 disposing of the writ petition. The order dated April 02, 2008 is set out below:

After having heard the learned counsel appearing for the parties and on perusal of the materials available on records, since the matter was discussed by the concerned authorities and also referred the same before the Administration and the matter is pending adjudication with regard to re-grouping and/or restructuring of the engineering wing of the Port Management Board, I dispose of this writ application by directing the concerned respondents to consider the case of the petitioner within a period of six weeks from the date of communication of this order.

The writ application is, thus, disposed of.

2. Mr Biswas, counsel for the appellant, submits that though there was no order staying the operation of the order dated April 02, 2008, the respondents have taken no steps to give the decision in compliance with the direction given by the order dated April 02, 2008.

3. Ms Nag, counsel for the respondents, submits that the respondents were and still are ready to comply with the direction, but they did not give the appropriate decision in compliance with the direction because of pendency of this appeal. She

says that within six weeks from date the respondents shall give appropriate reasoned decision in compliance with the direction given by the order dated April 02, 2008.

4. The position being as stated hereinbefore, we are of the view that there is no need to interfere with the order dated April 02, 2008. By the order, his Lordship did not decide any question involved in the writ petition. Rather the respondents in the writ petition were directed to examine the worth of the contentions of the petitioner raised in the writ petition and give appropriate decision.

5. The case of the appellant, as precisely argued by Mr Biswas, is that from the year 1995 the appellant has not been getting any avenue of promotion from the post of Junior Engineer (Civil) to which he was appointed. Mr Biswas has said that the post of Assistant Engineer (Civil) that was existing at the date the appellant was appointed was subsequently surrendered by the authorities who after sometime moved a proposal to appoint someone to the post on deputation.

6. We are of the view that since the question of availability of promotional avenue to the appellant has not been examined and decided by his Lordship, and the respondents have been directed to look into the matter and give decision, there is no need to remand the matter directing a fresh hearing of the writ petition. Needless to say that if the petitioner remains aggrieved by the decision of the authorities who will give a reasoned decision in compliance with the direction given by the order dated April 02, 2008, then he will be at liberty to move the appropriate forum by initiating appropriate proceedings.

7. For these reasons we dispose of the appeal taking note of the submissions made on behalf of the respondents that the direction given by the order dated April 02, 2008 shall be fully complied with by the respondents within six weeks from date. We hope that the reasoned decision once taken shall be communicated to the appellant without any delay. There shall be no order for costs.

Urgent certified Xerox of this order, if applied for, shall be supplied to the parties within three days from the date of receipt of records by the section concerned.

Appeal disposed of.