

Mintu Kumar Nandi Vs Union of India and others

Court: Calcutta High Court

Date of Decision: April 28, 2010

Acts Referred: Constitution of India, 1950 " Article 226

Citation: (2010) 127 FLR 151

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Rudra Jyoti Bhattacharjee and Ms. Debjani Ghosal, for the Appellant; Nisith Mukhopadhyay, for the Respondent

Final Decision: Dismissed

Judgement

Jayanta Kumar Biswas, J.

The petitioner in the pending Article 226 petition has taken out CAN No. 6822 of 2009 for an interim order.

2. By an order dated May 12, 2009, Annexure P2 at p. 25, the petitioner was transferred. He was an Assistant Sub-inspector in the Border

Security Force. Feeling aggrieved, he brought the Article 226 petition dated July 8, 2009. By an order dated July 27, 2009 the petition was

admitted. No interim order was made Now the interlocutory application has been filed for an interim order restraining the respondents from

enforcing the transfer order.

3. Counsel for the respondents submits that the petitioner has already reported for duty in terms of the transfer order questioned in the petition. His

submission is that the petition has lost its utility.

4. Counsel for the petitioner does not dispute the position. His submission is that the petition, though has lost its utility with respect to the transfer

order, has not lost its whole utility because the petitioner has made a prayer for constitution of a medical board as well.

5. His attention has been drawn to the fact that no case has been stated in the petition concerning constitution of medical board. Faced with this he

submits that such a case has been stated in the interlocutory application.

6. Needless to say that by filing an interlocutory application the petitioner cannot enlarge the scope of the case originally stated in the petition.

Hence I am of the view that dealing with the petitioner's case concerning constitution of medical board in this petition no order can be made.

In view of the above-noted situation, the petition and the application both are dismissed. No costs. Certified xerox.