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12-02-2021

Ct. 12

MAT 486 of 2020
With
CAN 3 of 2021
With
CAN 4 of 2021
With
CAN 5 of 2021

Union of India & Ors.
Versus
Tarakeswar Prasad

(Through Video Conference)

Ms. Sucharita Biswas, Adv.
...for the applicant

Mr. Debapriya Gupta, Adv.
Mr. Arijit Majumdar, Adv.
...for UOI

Mr. Uttam Kr. Mazumder, Adv.
Mr. Bhaskar Seth, Adv.
...for the respondents

Re: CAN 4 of 2021:

There is a delay of 119 days in preferring the application for recalling.

Sufficient cause being shown for not being able to prefer the application for recalling within the statutory period of limitation. The delay of 119 days in preferring the application is condoned.

CAN 4 of 2021 is allowed.

Re: CAN 5 of 2021

This application has been filed by one Dr. Subrata Chakraborty, Deputy Inspector General (Medical), BSF for recalling of our order dated 25th August, 2020. This application was filed on 25th January, 2021.

The order was passed on 25th August, 2020 in an appeal preferred

by the Union of India challenging the order of the learned Single Judge by which the transfer of the writ petitioner was set aside. After hearing the Union of India at length and taking note of the relevant rules, we affirmed the order passed by the learned Single Judge and set aside the order of transfer. This application is filed by one Dr. Subrata Chakraborty who was apparently accommodated in the post of the writ petitioner by reason of the order of transfer.

Since we decided the matter of transfer on merits, it is immaterial that such order might dislodge the person who was appointed in place of Dr. Tarakeshwar Prasad in the meantime. It is not that Dr. Chakraborty was not aware of the pending proceeding. It is only consequential that when we set aside matter of transfer, it would result in alteration of the existing transfer list. Once we arrived at a finding that the said alteration is not sustainable in law, it has to have an effect on the existing list which was prepared showing the writ petitioner as transferee.

The Union of India has not filed any application for recalling of our order. Once the matter is decided finally after hearing all the parties, we feel, there is no necessity to rehear the matter. This application has, in fact, been filed for rehearing the issue that we have decided after hearing the Union of India.

On such consideration, the application, being CAN 5 of 2001 dismissed and the application, being CAN 3 of 2021 is accordingly, disposed of.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)