

15.12.2020
SL No.4
Court No.12
(gc)

MAT 1718 of 2019
With
CAN 1 of 2020
(Old No: CAN 480 of 2020)
with
CAN 2 of 2020
(Old No: CAN 483 of 2020)

Sanchita Roy & Anr.
Vs.
State of West Bengal & Ors.

(Via Video Conference)

Mr. Tarun Jyoti Tewari,
Ms. Kakali Samajpati
...for the Appellant.

Mr. Joytosh Majumder, Ld. G.P.,
Mr. Raja Saha,
Mr. Pinaki Dhole,
...for the State.

Re: CAN 1 of 2020 (Old No: CAN 480 of 2020)

There is a delay of 44 days in preferring the appeal.

We have perused the application for condonation of delay and we are satisfied with the explanations offered by the appellant for not being able to present the appeal within the period of limitation.

The State also does not oppose the prayer for condonation of delay.

On such consideration, the application being CAN 1 of 2020 (Old No: CAN 480 of 2020) is allowed and disposed of.

Re: MAT 1718 of 2019
With
CAN 2 of 2020 (Old No: CAN 483/2020)

By Consent of the parties, the appeal and application are disposed of by this common order.

The appellant No.1 is the daughter of the deceased of one Chittaranjan Roy who died-in-harness while working as Assistant Teacher in a primary school on 26th April, 2003. The appellant No.2 who is the widow of the deceased submitted an application for compassionate appointment on 26th July, 2003 at a point of time when the appellant No.1 was a minor. The said application was forwarded to the District Inspector of School (S.E.) Nadia by a Memo dated 27th May, 2004 for consideration of her appointment as a Group 'D' employee in any secondary school as the widow does not possess requisite qualification for the post of Primary Teacher under Council. It appears that she made a further representation on 16th June, 2011 for consideration of her appointment as Group 'D' employee in a secondary school as she did not possess the requisite qualification for the post of primary teacher. This application appears to have not been considered. The appellants did not receive response from the concerned authority, however, in the meantime she received all the pensionary benefits including family pension. It was on the attainment of the majority of appellant No.1 that a separate representation was made on 25th October, 2017 to the respondent No.3, vide order dated 10th January, 2019 on the ground that since her daughter was under aged at the material time, she could not be given appointment.

Although, we feel that the respondent authorities should have considered the representation of the appellant No.2 for appointment as a Group 'D' employee in any secondary school in the year 2004 but it seems that the inaction on the part of the respondents was not contemporaneously challenged before any Court of law and in the meantime the appellant No.2 had received all pensionary benefits including the family pension which gives an impression that immediate financial need was taken care of and she might have been satisfied with such benefits. It is trite law that the appointment on compassionate ground is not a vested right and cannot be claimed as a matter of right. Compassionate ground appointment is to mitigate immediate hardship of the deceased employee due to untimely death of the sole bread earner. In this regard, we place reliance upon a judgment of the Co-ordinate Bench in the case of ***Arindam Choudhury -Vs.- State of West Bengal*** reported in ***(2019) 1 CHN (Cal) 614, Paragraph-37.***

This long passage of time coupled with the fact that the appellant No.1 did not challenge pursuant to her claim after 27th May, 2004 for her appointment to the post of Group 'D' in a secondary school, we feel that the learned Single Judge was absolutely correct in not interfering with the decision of the authorities concerned.

Accordingly, the appeal being MAT 1718 of 2019 and the application being CAN 2 of 2020 (Old No: CAN 483/2020) are disposed of.

All parties are to act on a website copy of this order on the usual undertaking.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)