

S/L 9
22.12.2020
Court No.26
SD

WPA 7647 of 2020
With
CAN 1 of 2020
(Via Video Conference)

Kanan Mondal
Vs.
State of West Bengal & Ors.

Mr. Bijoy Adhikari
Mr. Mahadeb Sarkar

...for the Petitioner.

Mr. Susovan Sengupta
Mr. Subir Pal

...for the State.

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by an order of rejection dated May 24, 2017 rejecting his application for FPS licence on the ground of compassionate appointment.

Mr. Bijoy Adhikari, counsel appearing on behalf of the petitioner, vehemently argues that even though the application for compassionate appointment was made beyond the 60 days period, his case should be considered afresh by the authority concerned.

Mr. Susovan Sengupta, counsel appearing on behalf of the State respondents, relies on a judgment in the case of *Faizul Karim vs. State of West Bengal reported in 2017 (5) CHN (Cal) 4* to buttress his argument that the period

provided is mandatory and, therefore, there is no scope of interference by this writ court.

I have heard counsel appearing on behalf of the parties and perused the materials on record.

Without going into the issue whether the application was entertainable even though the same was beyond the 60 days period as provided in the control order, I dismiss this writ petition *in limine* on the ground that the order under challenge is beyond a period of three years. The order passed is that of May 2017 whereas this writ petition has been filed on September 22, 2020.

Arguments may be made with regard to applicability of three years as limitation in the writ jurisdiction. However, writ courts, as a matter of principle, applies the principles of Limitation Act and condones such delay only when extremely good reason is provided for the delay. However, there is no scope for condoning the delay in this particular case as the writ petition is with regard to compassionate appointment.

It is to be noted that compassionate appointment is granted to meet the immediate financial urgency and to protect persons who may fall in dire circumstances because of death of the earning member of the family.

It is to be kept in mind that compassionate appointment has to be as per the rules, as declared by the Supreme Court in umpteen number of cases, and compassionate appointment being an exception to Articles

15 and 16 of the Constitution of India is not a foregone right of all individuals. As the petitioner in the present case has been tardy in pursuing her remedy, the need for emergency assistance to the petitioner has now expired.

In view of the above, CAN 1 of 2020 stands dismissed.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)