

25.01.2021

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ns Ct.04

M.A.T. 1231 of 2019
With
I.A. CAN 1 of 2019 (Old CAN 8844 of 2019)
With
I.A. CAN 2 of 2019 (Old CAN 8845 of 2019)

Rana Bouri.
Vs.
State of West Bengal & Ors.

Mr. Siddhartha Banerjee For appellant.

Mr. Jahar Lal De,
Ms. Smita Das Dey For State.

Mr. De, learned advocate appears on behalf of State, respondents in the appeal. He files affidavit of his client producing the document being application dated 25th April, 2000 of appellant made on plain paper. Mr. Banerjee, learned advocate appears on behalf of appellant and on instructions, confirms this is the application that had been made by his client. The documentary evidence is taken as additional evidence, produced in the appeal as required by Court to enable it to pronounce judgment.

Mr. De submits, appellant had misled the first Court. Appellant had introduced proforma regarding employment of dependants of Government employees dying while in service, filled up and submitted by appellant on 11th April, 2011. This is why learned first Court fixed date of application as made 10 years after the employee died.

Mr. Banerjee points out that memo dated 8th April, 2010 was the document relied upon by the first Court to fix the date of making of application as 10 years after date of death. The memo is dated 8th April, 2010 and the employee died on 2nd March, 2000. The proforma application is dated thereafter as on 11th April, 2011.

By consent of parties, we take up the appeal for hearing and disposal. Mr. De waives notice of appeal.

Appellant's contention is that factual basis of impugned judgment is incorrect.

In impugned judgment dated 14th February, 2020, the factual basis has been stated as follows:

“.....Here, in this case the application for compassionate appointment has been made after 10 years from the death of the petitioner's father. Thus there was no case of sudden economic crises for the family.....”

Respondent's contention, on production of the evidence, have been recorded above. We find that the factual basis of impugned order, by reason of omission of the evidence and otherwise, is incorrect. As such impugned order is reversed.

Respondents will consider and deal with the application dated 25th April, 2000, which culminated in proforma application dated 11th April, 2011. Respondents will take a decision within six weeks from date of

communication of this order. The decision should be made known to the appellant within that time. Appellant in complying with this order will act in accordance with law.

Mr. Banerjee also prays for expunging certain observations made by the first Court, in order dated 14th February, 2020, while correcting inadvertent errors crept in impugned order. He files affidavit and submits, thereby the position on defect stands clarified. We do not feel such is necessary since we have reversed impugned order.

The appeal and applications are disposed of.

(Arindam Sinha, J.)

(Suvra Ghosh, J.)