

D/L
Item No. 6
11.02.2022
KOLE

**MAT 40 of 2022
With
IA No. CAN 1 of 2022
With
IA No. CAN 2 of 2022**

**Biswajit Das
-Vs.-
The State of West Bengal & Ors.**

Mr. Tanmay Choudhury,

...for the appellant.

*Mr. B. Basu Mallick,
Mr. S. Das*

...for the State.

In Re: CAN 1 of 2022

This is an application for condonation of delay of 400 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

CAN No. 1 of 2022 is accordingly disposed of.

In Re MAT 80 of 2022 and CAN 2 of 2022

By consent of the parties the appeal and the application are taken up for hearing together.

This is an appeal against an order dated December 9, 2020 whereby WPA 8213 of 2020 was dismissed.

The appellant/writ petitioner aspired to be appointed as a driver under Baidyabati Municipality. He says that the Director of Local Bodies, West Bengal, pursuant to an order passed by a Learned Single Judge in WP No. 6567 (W) of 2019, accorded approval for his appointment on

compassionate ground for a sanctioned vacant post of driver reserved for exempted category in Baidyabati Municipality. However, the Municipality has refused to appoint him. Hence, he approached the learned Single Judge.

The Learned Single Judge recorded that the license for transport vehicle i.e., heavy-duty vehicle, was issued to the writ petitioner on January 20, 2020. The qualification required for recruitment of driver as would appear from the notification dated October 12, 2006 published in the Kolkata Gazette Extraordinary is that the candidate must have heavy driving license with an experience of at least five years. Since the petitioner did not have five years experience of driving heavy-duty vehicles, his appointment could not be granted by the Municipality. It was submitted before the Learned Judge that the requirement of five years experience does not apply to recruitment under exempted category. However, the petitioner could produce nothing in support of such submission. Accordingly, the learned Judge dismissed the writ petition.

We have heard Learned Counsel for the writ petitioner/appellant as well as learned Counsel for the State. In spite of service, nobody has appeared for the Municipality.

We find no infirmity in the approach and conclusion of the learned Single Judge. It is imperative, *inter alia*, for public safety and safety of pedestrians that a driver of a heavy-duty vehicle has sufficient experience to drive such a vehicle. The Government by notification has prescribed a

minimum of five years experience with heavy driving license for being appointed under the Municipality. There is no error in the order of the Learned Single Judge.

The appeal, being no. MAT 40 of 2022 and the stay application, being no. CAN 2 of 2022 are, accordingly, dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Kausik Chanda, J.)