

25.09.2023
SL No.5
Court No.8
(gc)

FMA 519 of 2004
CAN 4 of 2020 (Old No: CAN 2443 of 2020)
CAN 6 of 2023

Tapas Kumar Biswas
Vs.
Sadhan Biswas & Ors.

Mr. Asim Hati,
Mr. Debabrata Mondal,
Ms. Sreetama Neogi,
Ms. Nandini Sharma,
...for the Appellant.
Mr. Sabir Ahmed,
Mr. Dhiman Banerjee
...for the Respondent Nos.4 & 5.

Re: CAN 6 of 2023
with
CAN 4 of 2020
(Old No: CAN 2443 of 2020)

1. This is an application for condonation of delay in filing the application for recalling and/or restoration of the order dated 22nd January, 2020.
2. We have perused the application for condonation of delay. The delay of 11 days in filing the recalling application is condoned.
3. Sufficient cause being shown for non-appearance on 22nd January, 2020 when the appeal was dismissed for default, the said order is recalled and the appeal is restored to its original file and number.

4. Accordingly, the application being CAN 6 of 2023 and CAN 4 of 2020 (Old No: CAN 2443 of 2020) stand disposed of.

Re: FMA 519 of 2004

1. Since the selection procedure was found to be flawed and not in accordance with the extant rules, the appellant has no case to argue and cannot claim benefit of a selection which was de hors the provision.
2. However, on taking note of the fact that the appellant had rendered service on the basis of the selection and he is no way responsible for such irregularity, the direction to return salaries, allowances and service benefits as enjoyed by him is set aside.
3. The appeal, accordingly, stand disposed of.
4. However, there shall be no order as to costs.
5. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)