

21.09.23
Sl-21
Ct.11
(S.R.)

**MAT 148 of 2023
with
CAN 1 of 2023**

**Durgasish Banerjee
v.
The State of West Bengal & Ors.**

Mr. Himangshu Ghosh ... for the writ appellant.

Mr. Pinaki Dhole
Mr. Avishek Prasad ... for the State.

The present appeal has been preferred challenging an order dated 28th August, 2017 passed in a writ petition being WP No.17062 (W) of 2017. In connection with the appeal an application for condonation of delay being CAN 1 of 2023 has been preferred stating, *inter alia*, that the period of such delay stands intervened by a period lost due to the pandemic.

As we have invited Mr. Ghosh, learned advocate appearing for the appellant to advance his arguments on merits of the matter, we condone the delay in preferring the appeal.

The application being CAN 1 of 2023 is, accordingly, disposed of.

Mr. Ghosh submits that it was specifically argued before the learned Single Judge that the appellant's engagement had been illegally discontinued in blatant violation of the principles of natural justice and he had

been refused renewal without any reason whatsoever. The learned Single Judge glossed over the said issues and did not return any finding on the same. Such infirmity in the order warrants interference in the present appeal.

Mr. Dhole, learned advocate, assisted by Mr. Prasad, learned advocate, appearing for the respondents, however, denies and disputes the contention of the appellant and submits that the appellant was engaged contractually. He had no enforceable right to continue in the post after expiry of the period of such engagement. The decision to discontinue the appellant's engagement was taken after considering his conduct and performance during the contractual period. Thus, there was no illegality in the order dated 31st March, 2017 by which the appellant was discontinued.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The learned Single Judge observed that the order of discontinuance did not suffer from any jurisdictional error and refused to exercise discretion in favour of the appellant taking note of the facts that there was a previous complaint against the appellant and that the order of discontinuance was issued with prior intimation to him.

The learned Single Judge upon dealing with the

factual issues arrived at specific findings and we do not find any patent error in the order impugned.

In view thereof, the appeal being MAT 148 of 2023 is dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)