

03.10.2023
SL No.47
Court No.8
(gc)

**FMA 633 of 2019
CAN 3 of 2022**

**Kalipada Ghosh, since deceased,
represented by his legal heir
Smt. Sikha Ghosh
VS
The State of West Bengal & Ors.**

Mr. Chandan Dutta,
Mr. Goutam Malik
...for the Petitioner/Appellant.

Mr. Avishek Prasad,
...for the State.

1. This appeal is directed against the order of 7th January, 2019. It appears that the petitioner was working as an organizing teacher of the school and when the Government granted aid to the institution and the school was recognized, the petitioner was not granted the approval of appointment. However, it has been recorded in the order in C.O. 13104 (W) of 1983 decided on 10th April, 1997 that the petitioner was accommodated against supernumerary post and paid salary of some amount for a certain period. The original writ petitioner alleged that he was not allowed to join the school but there was no contemporaneous document or proceeding initiated by the original

petitioner wherefrom it appears that he had ventilated his grievance. There was no proceeding in the Court alleging that he was obstructing from joining the school.

2. The learned Single Judge taking into consideration the order earlier passed in WP 408 (W) of 2016 and the fact that there is no challenge to the fact that he was not allowed to join the service, the writ petition was not allowed. In absence of any demonstrable fact that the original petitioner was not allowed to join the school, it is not possible to grant any relief to the present appellant.
3. Under such circumstances, the appeal fails.
4. Accordingly, the appeal and the application stand dismissed.
5. However, there shall be no order as to costs.
6. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)