

11.07.2023
SL No.7
Court No.8
(gc)

MAT 328 of 2018
CAN 1 of 2018 (Old No: CAN 2416 of 2018)
CAN 2 of 2018 (Old No: CAN 2574 of 2018)

Kakali Ghosh
Vs.
The State of West Bengal & Ors.

Mr. S. Chakraborty,
...for the Appellant.
Mr. Tapan Kumar Mukherjee, Sr. Adv.,
Mr. Somnath Naskar,
...for the State.
Mr. Ranajit Chatterjee,
...for the Respondent No.3.

Re: CAN 2 of 2018
(Old No: CAN 2574 of 2018)

This is an application for condonation of delay. There is a delay of 119 days in filing the memorandum of appeal. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation. The delay of 119 days in filing the memorandum of appeal is condoned.

Accordingly, the application for condonation of delay is allowed and disposed of.

Re: MAT 328 of 2018
with
CAN 1 of 2018
(Old No: CAN 2416 of 2018)

Mr. Ranajit Chatterjee, learned Counsel appearing for the respondent No.3 has submitted that there is a short-fall of about four years to

become eligible for full pension. However, it is not being disputed that if the application for compassionate appointment was considered and disposed of when it was made, the short-fall would not have arisen. In view of the fact that the application was filed in terms of the scheme and it was filed immediately after the death of the husband of the petitioner and if we consider the date of application to be the date for eligibility to get an appointment to the said post then it cannot be disputed that the appellant would be entitled to full pensionary benefits. Moreover, it is a fact that during the pendency of an application for compassionate appointment four persons have been appointed between January, 2009 and July, 2011 even if her case was considered in the year 2009 she would have been eligible for full pension.

Under such circumstances, we allow the appeal.

The impugned order is set aside.

We direct the respondent authorities to condone the short-fall of four years and grant notional seniority for the purpose of full pensionary benefits only.

Accordingly, the appeal and the application stand disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)