

Item-45. 05-09-2023

sg Ct. 8

MAT 467 of 2022
CAN 1 of 2022
CAN 2 of 2022

Sibani Ghosh (Roy)
Versus
The State of West Bengal & Ors.

Mr. Sayan De, Adv.
Mr. Kaustav Shome, Adv.
Mr. Sayan Kanjilal, Adv.

...for the appellant

Md. Arindam Ghosh, Adv.

...for the State

In Re: CAN 1 of 2022

1. This is an application for condonation of delay. There is a delay of 242 days in preferring the appeal.
2. The explanation offered for not being able to file the memorandum of appeal within the period of limitation is accepted. Hence, we condone the delay of 242 days in preferring the appeal. CAN 1 of 2022 is, thus, disposed of.

In Re: MAT 467 of 2022 and CAN 2 of 2022

3. The appeal is arising out of an order dated 16th July, 2019. The petitioner claimed arrear salary to the tune of Rs.2,41,386/-. The learned Single Judge dismissed the writ petition on the ground of delay as well as failure on the part of the petitioner to question the Memo dated 3rd August, 2005.
4. The then District Inspector of Schools passed an order on 3rd August, 2005 in compliance of an order dated 10th May, 2005 passed in an earlier writ petition and observed that the present appellant would be entitled to draw Post-Graduate pay scale commencing from 1st January, 2004 only and

necessary papers in respect of revised fixation conforming to such shifting and entitlement of higher scale of pay has to be processed immediately. Subsequently, the District Inspector of Schools (S.E.), Paschim Medinipur on 19th July, 2006 determined a sum of Rs.2,41,386/- to be the amount payable from 1st September, 1993 till 31st October, 2005.

5. The writ petitioner claimed that the aforesaid amount was not paid. It is not in dispute that the said amount is payable by the School authorities to the writ petitioner. The learned Single Judge dismissed the writ petition on the ground that there has been a delay in approaching the Court and she did not raise any question with regard to her entitlement and the claimed arrear even soon after her retirement on 31st August, 2009.
6. In view of the fact that the claim is admitted and she had performed her duty diligently, we think that the period of limitation should not stand in the way in refusing to grant of monetary relief to a teacher who served an Institution.
7. Under such circumstances, we direct the Commissioner of School Education to take immediate step for release of the aforesaid sum without interest within a period of four weeks from date.
8. This order shall be immediately communicated to the Commissioner of School Education by Mr. Arindam Ghosh, the learned Counsel representing the State for compliance.
9. The impugned order is set aside. The appeal and the application are disposed of accordingly.
10. On the oral prayer of the learned Counsel for the appellant,

the Commissioner of School Education shall be made a party instead of Director of School Education, being the respondent no.2, in the appeal and the applications.

11. Such correction be made in course of the day.

12. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Uday Kumar, J.)

(Soumen Sen, J.)