

Item-6. 12-09-2023

FMA 460 of 2023
CAN 1 of 2023

sg Ct. 8

Shyamsundar Pan
Versus
The State of West Bengal & Ors.

Mr. Syed Shamsul Arefin, Adv.
...for the appellant

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

1. We have heard the learned Counsel for the appellant.
2. The appeal is arising out of an order dated 22nd February, 2023 in which the writ petitioner has challenged an order passed by the Director of Pension, Provident Fund and Group Insurance in terms of an order passed by the learned Single Judge on 29th June, 2022.
3. The learned Single Judge disposed of the writ petition with the observation that the petitioner can approach the Schools Education Department for redressal of his grievance in the event the writ petitioner is aggrieved by the said order. The learned Single Judge observed that there is no merit in the writ application. This order is under challenge.
4. From the narration of the facts in the impugned order and as contended by the writ petitioner, we are of the view that the facts stated by the writ petitioner, if proved correct, he would be entitled to such benefit as he was not responsible for the delay. The relevant provisions cannot be construed against the writ petitioner when it is apparent that the delay was at the end of the authority concerned in not implementing the order of the Courts.

5. On such consideration, we direct the Commission of School Education Department to reconsider the matter upon verification of all records and in the light of our observations made in this order.
6. The Commission shall decide the matter within a period of four weeks from the date of communication of this order by either of the parties.
7. The appeal succeeds. The order of the learned Single Judge is set aside.
8. The appeal and the application are, accordingly, disposed of.
9. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)