

Item-25. 30-08-2023

sg Ct. 8

MAT 815 of 2022
CAN 1 of 2022
CAN 2 of 2022

Nilam Lala & Anr.
Versus
The State of West Bengal & Ors.

Mr. Pritam Choudhury, Adv.
Mr. Abhisek Addhya, Adv.
...for the appellants
Mr. Bhaskar Prasad Baisya, Adv.
Mr. Nilay Baran Mondal, Adv.
...for D.P.S.C. Kolkata
Mr. Avishek Prasad, Adv.
...for the State

1. The affidavit of service filed in Court today is taken on record.
2. CAN 1 of 2022 is the application for condonation of delay.
There is a delay of 67 days in preferring the appeal.
Sufficient cause being shown for not being able to present the memorandum of appeal within the period of limitation.
3. The delay of 67 days is condoned. The application for condonation of delay being CAN 1 of 2022 is thus disposed of.
4. The appeal is arising out of an order dated 14th March, 2022 in which a prayer was made for appointment of the son of the deceased in died-in-harness category.
5. Mr. Apurba Kumar Lala was the Assistant Teacher at Tarasankari Vidyapith (G.S.F.P.) of O.S. 5B, Dakshindari Railway Colony, Kolkata. He was suffering from various ailments and ultimately died intestate due to renal failure on 23rd January, 2014. Immediately thereafter, the widow made an application to the District Inspector of School (Primary

Education), Kolkata for a job on compassionate appointment and release of family pension. This application was admittedly not processed for almost five years. In the meantime, the son of the deceased attained majority and immediately thereafter on 18th June, 2018, an application was filed by the widow for consideration of the son of the deceased for a suitable employment on compassionate ground. This application was rejected by the District Inspector of School (S.E.), Kolkata on 20th November, 2019. This order was challenged in this writ petition in which the impugned order was passed.

6. The learned Single Judge appears to have not appreciated the facts in its proper perspective. This is not in dispute that the widow was eligible for compassionate appointment immediately after the death of her husband according to the extent Rules. This fact has not been denied before us. All documents necessary for the consideration of the said application have been duly forwarded to the authorities concerned. On the basis of such documents, the authorities were directed to consider the application for compassionate appointment and to process the same at an earliest, so that the family of the deceased does not suffer penury.
7. The respondent authorities were extremely lackadaisical in deciding the issue and to resolve the issue expeditiously. The widow in the meantime has submitted that due to her physical condition, she may not be able to do the job that may be assigned to her and had requested to consider her son for the appointment. Admittedly, the son was minor at the

time of death and he attained majority in the year 2018 immediately before the request was made on 18th June, 2018. This was followed by a reminder on 28th March, 2019. The District Inspector of School has proceeded on the basis that the widow had failed to submit required documents for compassionate appointment.

8. We are completely in disagreement with the observations made in this regard. The documents submitted along with the letter were adequate and sufficient. This has been accepted in all fairness on behalf of the State appellant in the appeal. All documents that are necessary and are required to be produced by the writ petitioner no.1 were produced. The writ petitioner being the widow cannot be made to run from pillar to post for getting the job. In the event, by reason of inordinate delay, she had become incapacitated, the responsibility lies with the authorities concerned to find out a remedy and not to perpetuate an injustice caused to the family of the deceased. The impugned order rejecting the prayer by the D.I. is cryptic and suffers from non-application of mind. The Rules are required to be interpreted to advance cause of justice.
9. We direct the District Inspector of School, Kolkata to revisit the issue and in the event, on the basis of the medical report, it is found that the writ petitioner cannot be given a suitable post commensurate with her education, the son of the deceased shall be considered for compassionate appointment commensurate with his qualification as we are of the opinion that the delay had occurred at the end of the authorities.

There has been laches on the part of the authorities concerned in processing the application in time. They have a duty to speak and respond to the application filed within a reasonable time. By reason of their conduct they cannot make the writ petitioner ineligible.

10. The D.I. Kolkata if has any doubt about the medical document disclosed shall make a request to the Superintendent, SSKM to constitute a committee to examine the widow as to her medical fitness and capacity to work. The Superintendent on receipt of such request shall fix a date and the D.I. shall inform the widow the date for medical examination. Upon receiving such report, the District Inspector of School, Kolkata shall take an informed decision.
11. The financial condition of the family should also be assessed in deciding the said issue. However, we make it clear that the financial condition should not stand in the way in deciding the eligibility of the widow to get compensation appointment as she was otherwise entitled to compassionate appointment at the relevant point of time.
12. The entire process should be completed within a period of eight weeks from date.
13. With the above directions, the appeal and the application stand disposed of. The impugned order is set aside.
14. 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.)

