

51 03.10.2023

Ct-08

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FMA 1083 of 2019

with
I.A No. CAN 1 of 2023

Atanu Ghosh
Vs.
State of West Bengal & Ors.

Mr. Biswajit De
... For the Appellant

Mr. Ranjan Saha
... For the Respondent nos. 4 & 5

Mr. Supriyo Chattopadhyay, Ld. AGP
Ms. Iti Dutta
... For the State

1. We have heard the learned counsel appearing for the parties.

2. The appellant is aggrieved by the order dated 16th July, 2019 by which his application for compassionate appointment was rejected on the ground of delay.

3. It appears that it is not in dispute that the relevant circular applicable to the petitioner as on the date of death of his father was not applied while rejecting the application filed by his elder brother for compassionate appointment. It is also not in dispute that the petitioner filed an application for compassionate appointment immediately after the death of his elder brother on 25th June, 2011. Once the Court has come to a finding that the petitioner has applied for compassionate appointment and

the earlier application was not considered on the basis of the Circular applicable to the petitioner, namely, Memo dated 26th June, 2009, which was not in force on the date of death of his father, it was incumbent upon the authorities to decide the application of the petitioner without any further delay.

4. Under such circumstances, we direct the Chairman, Paschim Medinipur District Primary School Council, the respondent no. 5, to consider the said application for compassionate appointment on the basis of the relevant circular applicable on 18th March, 2008 after taking into consideration the present financial condition of the petitioner within a period of eight weeks from the date of communication of this order by either of the parties.

5. The impugned order is set aside accordingly.

6. In view of the aforesaid, the appeal being FMA 1083 of 2019 stands disposed of.

7. In view of the disposal of the appeal, the CAN 1 of 2023 is accordingly disposed of.

8. However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)