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Ct-08

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MAT 1368 of 2019

with

I.A No. CAN 1 of 2019(Old CAN No. 10433 of 2019)

CAN 2 of 2019(Old CAN No. 10434 of 2019)

The State of West Bengal & Ors.

Vs.

Santosh Kumar Das & Ors.

Mrs. Kakali Samajpaty

... For the Appellants/State

Mr. D.K. Sengupta

Ms. Sweta Saha

... For the Respondent no. 1

Re: CAN 1 of 2019(Old CAN No. 10433 of 2019)

(Condonation of Delay)

There is a delay of 100 days in presenting the memorandum of appeal.

We are satisfied with the explanation offered for not being able to file the memorandum of appeal within the statutory period, we are inclined to condone the delay in presenting the said application being CAN 10433 of 2019.

The application for condonation of delay is, thus, allowed without any order as to costs.

CAN 10433 of 2019 is thus disposed of.

Re: MAT 1368 of 2019

It is an unfortunate case where the writ petitioner/respondent no. 1 although was entitled to compassionate appointment, till date he was denied such employment. He was caught in the cross-fire between the Jangipur

Municipality and the D.P.S.C, Murshidabad.

The record reveals that at least five occasions he had approached the writ court for redressal of his grievance. His representation was unceremoniously rejected by the Commissioner, School Education, West Bengal without properly understanding the problem. Admittedly, the father of the petitioner was working as a peon in the Victoria Primary School. At the time of his death, the said school was managed and controlled by Jangipur Municipality. Subsequently, the management of the school was transferred to D.P.S.C, Murshidabad on 17th April, 2003. By the notification of the DPSC Murshidabad being Memo no. 1000(3) dated 17th April, 2003 and Memo no. 1203 dated 13th May, 2003, the management of all primary schools and services of the teachers and school peons were transferred from Jangipur Municipality to DPSC, Murshidabad in the year 2003.

After the death of the father of the writ petitioner on 26th November, 2000, the mother of the petitioner filed an application before the Jangipur Municipality for appointment of his son on compassionate ground. Subsequently, the writ petitioner also filed an application praying

for appointment on compassionate ground before the Chairman, Jangipur Municipality. At the relevant point of time, the said application was required to be considered by the Jangipur Municipality. However, by reason of change of management, the said application should have been processed by the DPSC, Murshidabad for all practical purpose. The father of the writ petitioner was a peon working in the Victoria Primary School and not in the Jangipur Municipality.

It appears that the relevant records of the petitioner could not be traced by the DPSC. The sufferance of the petitioner must come to an end. We also agree with the view expressed by the learned single Judge. The report of the Commissioner, School Education, West Bengal has failed to address the said issue and the reasons furnished thereof is not acceptable to us.

Under such circumstances, the Commissioner of School Education, West Bengal, is directed to revisit the issue by treating the petitioner taking into consideration that by reason of Memo no. 1000(3) dated 17th April, 2003 and Memo no. 1203 dated 13th May, 2003, the father of the petitioner, if he were alive,

would be the employee of the school and by reason of transfer of the management in view of the above memo, the compassionate appointment should be considered by DPSC, Murshidabad.

Learned single Judge while disposing of the writ petition taking note of Government Notification 559/ES/E/4A-4S/13 dated 6th July, 2015. The said notification was found to be relevant in the instant case.

On such consideration, the appeal being MAT 1368 of 2019 stands dismissed. However, the Commissioner of School Education, West Bengal must ensure that suitable employment is provided to the writ petitioner within a period of four weeks from the date of communication of this order.

In view of dismissal of the appeal, the application for stay being CAN 10434 of 2019 is accordingly dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)

