

29.08.2023
SL No.37
Court No.8
(gc)

**MAT 1383 of 2021
CAN 1 of 2021
CAN 2 of 2022**

**Rafi Mahammad
Vs.
State of West Bengal & Ors.**

Md. Ashraf Ali
...for the Appellant.
Mr. Prosenjit Mukherjee,
Ms. Madhurima Sarkar
... for the Madrasah Service
Commission.
Md. Galib,
Mr. Gourav Das
...for the State.

Re: CAN 2 of 2022

1. This is an application for addition of party in the main writ petition.
2. We have perused the application for addition of party.
3. Accordingly, the respondent Nos.5,6, 7 and 8 are added as party respondents in the main writ petition.
4. The application for addition of party is allowed and disposed of.

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5. The appeal is arising out of an order dated 15th December, 2021. The writ petitioner is an unsuccessful empanelled candidate. He has challenged the appointment of one

Md. Mufassel Sk. to the post of Headmaster on the ground that such recommendation is barred under Rule 27 of the West Bengal Madrasah Service Recruitment (Selection and Recommendation of Persons for Appointment and Transfer to the Posts of Teachers and Non-teaching Staff) Rules, 2010.

6. Md. Mufassel Sk. was initially recommended as Assistant Teacher in January, 2021. The said recommendation was for general transfer. He was recommended for Headmaster in August, 2021. Rule 27 of the said Rules requires that the bar of recommendation will apply for the previous recommendation was to a similar post in a Madrasah. Initially, Md. Mufassel's name was recommended as Assistant Teacher and not as Headmaster. Md. Mufassel Sk. had more than one year's approved service in the post of lower scale which is required under the Rule. However, the subsequent recommendation was for Headmaster after Md. Mufassel Sk. has successful in the examination. The post of Headmaster attracts higher scale of pay.

7. On such consideration, we do not find any merit in the appeal.
8. The order under appeal is confirmed.
9. The appeal and the application, accordingly, stand dismissed.
10. However, there shall be no order as to costs.
11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)