

11.10.2023
SL No.23
Court No.8
(gc)

**MAT 1755 of 2023
CAN 1 of 2023
CAN 2 of 2023**

**Smt. Sukla Panja (Rajak)
Vs.
The State of West Bengal & Ors.**

Mrs. Usha Maity,
Mr. Sakya Maity,
...for the Appellant.
Mrs. Koyeli Bhattacharyya,
...for the W.B.B.S.E.
Mr. Suman Dey,
Ms. Sayantanee Bhattacharjee,
...for the School/
Respondent Nos.5 & 6.
Mr. Supriyo Chattopadhyay,
Mrs. Tapati Samanta,
...for the State.

Re: CAN 1 of 2023

1. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
2. The delay of 63 days in filing the memorandum of appeal is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

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CAN 2 of 2023**

4. The appeal is arising out of an order dated 26th June, 2023 passed in a contempt proceeding. However, it appears from the order passed by the learned Single Judge that the said order is not merely confined

to the issues required to be decided in the contempt proceeding, namely, to find out whether there has been a willful and deliberate violation of the directions and/or order passed by the learned Single Judge but it travelled beyond it as by the impugned order, the writ petitioner was required to be treated as having resigned from the school from the day she absented herself.

5. If we treat this to be a finding of the learned Single Judge then it is not permissible to make such observation on the merits of the claim as the Board is supposed to take a decision in this regard. However, in the event we consider paragraph 10 to be the submission of Mrs. Bhattacharya then it is not a finding of the learned Single Judge. If we read paragraph 7 onwards where the submission of Mrs. Bhattacharya was recorded, it appears to be a submission made by Mrs. Bhattacharya.
6. We clarify that paragraph 10 of the order under appeal shall not be construed to be a finding of the learned Single Judge with regard to the claim of the writ petitioner either for employment or condonation of

absence or any other right as protected in Paragraph 15 of the impugned order.

7. We have been informed by Mrs. Bhattacharya that the Board has already decided the matter.
8. Mrs. Maity has submitted that the appellant has not been communicated with a copy of the said order.
9. A copy of the order claimed to have been passed on 12th September, 2023 is made over to Mr. Sakya Maity, learned Advocate appearing on behalf of the appellant in Court.
10. A photocopy of the said order is kept with record.
11. With the aforesaid observation, the appeal and the application stand disposed of.
12. However, there shall be no order as to costs.
13. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)