

28.06.2023
Item No.31
Ct. No.5
CHC

W.P.S.T.456 of 2013
IA NO: CAN/1/2014 (Old No:CAN/2879/2014)

Sri Santanu Mishra & anr.
Vs.
The State of West Bengal & ors.

Mr. Debabrata Saha Roy,
Mr. Supriyo Chattopadhyay,
Mr. Sudip Kr. Maiti
...for the writ petitioners

Mr. Tapan Kr. Mukherjee, Sr. Advocate & A.G.P.
Mr. Pinaki Dhole,
Mr. Somnath Naskar
...for the State

In Re: CAN/1/2014 (Old No:CAN/2879/2014)

This application being CAN/1/2014 (Old No: CAN/2879/2014) is for restoration upon recalling the order dated February 18, 2014 passed in WPST 456 of 2013.

Causes shown being sufficient, the restoration application being CAN/1/2014 (Old No: CAN/2879/2014) is allowed.

Let the matter be restored to its original file and number.

An order dated July 11, 2006 passed by the West Bengal Administrative Tribunal in O.A.602 of 2004 is under challenge at the behest of two writ petitioners.

There is an issue of delay in approaching both the Tribunal as well as the High Court.

Since, the Tribunal considered and decided the Original Application on merits we are not minded to look into the delay in approaching the Tribunal by the writ petitioners.

However, there is an issue of delay in approaching the High Court under Article 226 of the Constitution of India.

The writ petitioners approached the High Court on November 27, 2013 after an expiry of seven years from the date of the impugned order being July 11, 2006.

The delay is sought to be explained on the basis of medical conditions of both the writ petitioners.

We perused the medical documents annexed to the writ petition. We are not satisfied with any of the explanations with regard to the medical conditions of both the writ petitioners.

None of the medical documents suggest that, both the writ petitioners were suffering from such medical condition so as not to be able to approach the High Court for a period in excess of seven years. Moreover, the entirety of the period from the date of the impugned order till the date when they approached the High Court remain unexplained.

In such circumstances, we find that delay in approaching the High Court remains unexplained. Consequently, we are unable to extend our discretionary jurisdiction under Article 226 of the Constitution of India to come to the aid of the writ petitioners.

That apart, there is consideration of the age of both the writ petitioners. Apparently, the age of the first writ petitioner is an excess of 45 years and the second writ petitioner is about 43 years.

In such circumstances, we find no merit in the present writ petition.

W.P.S.T. 456 of 2013 along with connected application are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)