

15.04.2024
SI No.4
Court No.8
(gc)

**MAT 205 of 2024
CAN 1 of 2024
CAN 2 of 2024**

**Anita Pore
Vs.
Union of India & Ors.**

Mr. Dibyendu Chatterjee,
Ms. Pritam Majumdar,
Mr. Rahul Deb Goenka,
Mr. Mainak Singha Barma,
Ms. Satabdi Das
...for the Appellant.

Mr. Subrata Roy,
Ms. Parna Mukherjee
.....for the Respondent Nos.4 & 5.

Mr. S. Banerjee,
...for the State.

1. The affidavit-of-service filed in Court is kept with the record.

Re: CAN 1 of 2024

2. There is a delay of 82 days in filing the memorandum of appeal.
3. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
4. The delay of 82 days in filing the memorandum of appeal is condoned.
5. Accordingly, the application for condonation of delay is allowed and disposed of.

Re: MAT 205 of 2024
With
CAN 2 of 2024

6. The appeal is arising out of an order dated 20th December, 2023 in a writ petition in which the appellant before us has questioned her demotion from the post of Coordinator to that of the Attendant by the respondent Nos.4 and 5, namely, M/s. GVK Emergency Management and Research Institute and M/s. Emri Green Health Services. The learned Single Judge dismissed the writ petition on the ground that there are no public element involved in the writ petition. The appointment of the writ petitioner was purely contractual.
7. The learned Counsel appearing on behalf of the appellant has submitted that the writ petitioner was appointed by the respondent Nos.4 and 5 under a Central Government Project in the year 2018 and, accordingly, her service is required to be considered as a public service irrespective of composition and/or constitution of respondent Nos.4 and 5. It is, however, not in dispute that

the respondent Nos.4 and 5 are private institutes who have been receiving certain grant and the appellant was engaged by the respondent Nos.4 and 5 as a part of implementation of such project. However, merely because the writ petitioner was appointed by the respondent Nos.4 and 5 as a part of implementation of the said project, does not make the employment of the writ petitioner as an employee in a public employment, the contract of employment is purely contractual in nature having no public law element involved in the process of appointment or in the nature of appointment. The writ petitioner is not appointed with the approval of any Central agencies and there is no service condition which would require that the service conditions are required to be governed by the Central Rules or that she cannot be dismissed from service without the approval of the Central Government and this fact clearly distinguished it from the decision of the Hon'ble Supreme Court in ***Marwari Balika Vidyalaya Vs. Asha Srivastava & Ors. reported at (2020) 14 SCC 449***

on which reliance has been placed on behalf of the appellant.

8. The appeal and the application are, accordingly, dismissed.
9. However, there shall be no order as to costs.
10. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Uday Kumar, J.)