

19.03.2024
Item No.15
RP
Ct. No.1

MAT 369 of 2024
With
IA No.CAN 1 of 2024, CAN 2 of 2024

The Chief Judge, City Sessions Court & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Biswabrata Basu Mallick, Ld. AGP
Ms. Parna Roy Choudhury
.....for Appellants
Mr. Indrajeet Dasgupta
Ms. Puspita Bhowmick
.....for Private Respondent No.2
Mr. Jayanta Samanta
Mr. Supriyo Mazumder
.....for State
Mr. S. Chakraborty
.....for High Court Administration

In Re : CAN 1 of 2024

1. There is a delay of 51 days in filing the appeal.

We have heard the submissions of the learned advocate appearing for the respondent/writ petitioner, who has vehemently opposed the prayer for condonation of delay.
2. After hearing the learned advocates for the parties, the Court has taken into consideration the subject involved in this appeal and the likelihood that other employees may also be affected in the process. Therefore, the Court exercises its discretion and condone the delay.
3. The application, being CAN 1 of 2024, is allowed.

In Re: MAT 369 of 2024
With
IA No.CAN 2 of 2024

1. This intra-Court appeal filed by the Chief Judge and the Registrar of the City Sessions Court, Calcutta is directed against a common order and judgment dated 6th October, 2023 passed in WPA 10737 of 2018, WPA 11142 of 2021 and WPA 18548 of 2018. The operative portion of the directions issued in the said judgement are as hereunder.

- “i) *The Chief Judge, City Sessions Court shall act in accordance with the provisions of Section 5 of the West Bengal Scheduled Castes and Schedule Tribes (Reservation of vacancies in Services and Posts) Act, 1976 while considering the case of promotion of its employees;*
- ii) *The Chief Judge shall maintain a register for giving effect to the instructions contained in paragraph (i) of the Schedule-II of the West Bengal Scheduled Castes and Schedule Tribes (Reservation of vacancies in Services and Posts) Act, 1976, if it is not maintained and before giving promotion, the Court shall follow the instructions contained in the Schedule-II appended to the Act of 1976 and the notes inserted thereunder;*
- iii) *The Chief Judge, City Sessions Court shall form a committee consisting of three members of his choice under the chairmanship of one senior judicial officer;*

- iv) *The committee upon scrutiny of all relevant documents including the contemporaneous OPRs of the petitioner shall ascertain as to whether the petitioner had earned the eligibility for promotion having scored 70% in attendance and 60% on the whole in OPR.*
- v) *Upon application of the reservation norms, as disclosed above and if on the basis of seniority-cum-merit, the petitioner comes within the zone of consideration for promotion, the committee shall make recommendation for the petitioner's promotion to the post of BC, Gr.-I to the Chief Judge, who in turn shall take necessary steps to extend the benefits of promotion in favour of the petitioner with retrospective effect and shall also take appropriate steps to extend all the consequential benefits including arrears of pay, seniority etc.*
- vi) *The entire exercise shall be completed within four months from the date of receipt of a copy of this order."*

2. The learned advocate appearing for the appellant submitted that in the appeal petition a small mistake has crept in as the State of West Bengal service through the Secretary, Judicial Department and the Registrar General of this Court have been shown as the respondent nos.1 and 3 respectively whereas the appellants have not prayed for any relief against the respondent nos.1 and 3 and inadvertently they have been shown as respondent nos.1 and 3 and they ought

to have been shown as the proforma respondents. This submission is accepted and the State of West Bengal service through the Secretary, Judicial Department and the Registrar General, High Court at Calcutta are treated as proforma respondents in this appeal.

3. The learned Single Bench while disposing of the writ petitions has rightly noted the legal position that no employee has a vested right to promotion but he is allowed to be considered for promotion in accordance with the extant rules and reservation policy etc. As could be seen from the order passed by the Chief Judge, City Sessions Court, Calcutta in Order No.438 dated 11th October, 2023 the orders and directions issued by the learned Single Bench have been complied with and a committee is constituted comprising of three judicial officers, one of whom is the Chairperson of the Committee. The Committee was directed to scrutinize all relevant documents including the contemporaneous OPR's of the petitioner shall ascertain as to whether the writ petitioner had earned the eligibility for promotion having scored 70% in attendance and 60% on the whole in OPR and to submit its report within two months in terms of the direction issued by the

learned Single Bench. Therefore, the orders and directions issued by the learned Single Bench have worked out itself and the appellants need not pursue the present appeal.

4. The second appellant, namely, the Registrar of the City Sessions Court, Calcutta is present in Court and the Court has also interacted with him and he has apprised the Court that steps have already been taken in furtherance to the order dated 11th October, 2023 passed by the Chief Judge, City Sessions Court, Calcutta. It appears that a report has already been submitted by the Committee and the matter is under progress.
5. The grave concern expressed by the learned advocate appearing for the writ petitioner is that the writ petitioner has a strong apprehension that he is being targeted and apprehends that his candidature will not be rightfully considered.
6. There need not be any such apprehension of the writ petitioner since the directions issued by the learned Single Bench have been complied with to the extent indicated in the order passed by the Chief Judge, City Sessions Court, Calcutta dated 11th October, 2023 and a committee has been

duly constituted and it is reported that the committee has already drawn its report. In the meantime, certain directions have been issued by the Judicial Department, Government of West Bengal and such has also been reckoned for the purpose of implementation of the Shetty Commission's recommendations.

7. In view of the aforesaid fact, we dispose of the appeal and the connected application by directing the appellants to proceed in furtherance to the order passed by the Chief Judge, City Sessions Court, Calcutta dated 11th October, 2023 and to take a decision in accordance with law with regard to the claim made by the respondent/writ petitioner. Needless to state that the relevant rules have to be taken note of as well as the orders passed by the Government of West Bengal with regard to the subject issue.

8. The learned Single Bench had fixed a time limit of four months from the date of receipt of a copy of the order to comply with the directions. Considering the complexity of the situation and a large number of candidates, who are involved in the process, this Court extends the time by a period of three months from the date of receipt of

the server copy of this order. Needless to say that the appellants, mainly the Chief Judge, City Sessions Court, Calcutta shall proceed in accordance with law and shall not be in any manner influenced by any punishment which was imposed on the writ petitioner unless there is a statutory right to consider any such punishment suffered by the writ petitioner which would operate as a disqualification as per the extant rules.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)