

19.08.2024

sayandeep

Sl. No. 17

Ct. No. 08

MAT 640 of 2022
With
CAN 1 of 2022, CAN 2 of 2022
Uttam Paul
Vs.
The State of West Bengal & ors.

Mr. Goutam Malik
Mr. Rajib Kumar Acharyya
... for the appellant

Mr. Lalit Mohan Mahata
Mr. Rudranil De
..... for the State

In Re: CAN 2 of 2022

The affidavit-of-service filed today be kept on record.

The instant appeal is filed belatedly along with an application for condonation of delay of 23 days in preferring the same.

After perusal of the averments made in the said application and upon hearing the respective counsels, we are satisfied that the appellant was prevented by a sufficient cause in not preferring the appeal within the statutory period of limitation provided therefor. Accordingly, the delay in filing the appeal is condoned.

The application being CAN 2 of 2022 is hereby allowed.

In Re: MAT 640 of 2022

By consent of parties, the main appeal is taken up for hearing as we find that the only point involved in the instant appeal is whether an application seeking compassionate appointment on the death of the

teacher, filed after a considerable delay can be entertained by the authority.

Admittedly, the father of the petitioner who was an Assistant Teacher died on March 2, 1978. The petitioner was 7 years of age at the time of death of his father which would be evident from the disclosure of the date of birth as June 24, 1971. The application seeking compassionate appointment was made for the first time on January 8, 2016 claiming that the appellant attained majority on June 24, 1989. The authority rejected the said application as the same is not in conformity with the statutory provisions. Though the learned Single Judge has dismissed the writ petition on the ground that since the appellant did not approach the authority making a prayer for appointment on compassionate ground as the said application was filed in the year 2016 by his mother but our attention is drawn to Rule 14 of the Rules regulating the recruitment and leave of the teachers in primary schools in West Bengal which provides that for seeking an appointment on compassionate ground the application must be taken out within two years from the date of the death of the teacher with rider that only one member of the family shall be eligible for the same. Since the appellant was minor at the time of death and the application was filed after more than a decade from the date of the death of the Assistant Teacher, such application cannot be entertained by the authority. In view of the time limit

set forth in Rule 14 of the said Rules, we thus do not find the ultimate decision of the Single Bench in rejecting the writ petition.

The instant appeal sans merit.

The same is hereby dismissed without any order as to costs.

Accordingly, the connected application being CAN 1 of 2022 is also dismissed.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)