

02.01.2024
SL No.12
Court No.8
(gc)

**MAT 660 of 2022
CAN 1 of 2022
CAN 2 of 2022**

**Kalyani Das @ Kalyani Manna
Vs.
State of West Bengal & Ors.**

Mr. Nani Gopal Sarkar,
Mr. Devranjan Das
...for the Appellant.
Mr. Biswabrata Basu Mallick, A.G.P.,
Ms. Mrinalini Majumder,
...for the State.
Dr. Sutanu Kumar Patra,
Ms. Supriya Dubey
...for the W.B.C.S.S.C.

Re: CAN 2 of 2022

1. There is a delay of 28 days.
2. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
3. The delay of 28 days in filing the memorandum of appeal is condoned.
4. Accordingly, the application for condonation of delay is allowed and disposed of.

**Re: MAT 660 of 2022
CAN 1 of 2022**

5. The appeal is arising out of an order dated 16th December, 2021. The matter relates to an advertisement for recruitment of assistant teachers dated 29th December, 2011. In the combined merit list, the name of the petitioner appeared but she was not called for

counselling. The combined merit list was published in the year 2015. She filed a writ petition in the year 2014. However, she withdrew the said writ petition with liberty to file afresh. The order disposing of the earlier writ petition, namely, W.P. No.16390 (W) of 2014 was passed on 9th July, 2014 by giving her such liberty. The appellant did not immediately file the writ petition. She made one representation on 16th July, 2019 after more than five years. She also appeared to have filed an application under the Right to Information Act in April, 2018.

6. The learned Counsel for the petitioner/appellant submits that the appellant has an arguable case on merits and the writ petition may not be dismissed merely on the ground of delay.
7. It appears that the recruitment of the teacher was initiated on 29th December, 2011 and this has been challenged after eight years. Third party interests have created in the meantime. Even if it is assumed for the time being that she was unfairly treated and not called for the counselling but she should have raised the dispute within a reasonable time and sought a relief. We do not find any plausible explanation for withdrawing the

writ petition and thereafter waited for almost five years for the second writ petition. The learned Single Judge on this consideration dismissed the writ petition. We also do not find any reason to interfere with the order passed by the learned Single Judge on the aforesaid ground.

8. Accordingly, the appeal and the connected application stand 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.

(Uday Kumar, J.)

(Soumen Sen, J.)