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MAT 763 of 2019
with
I.A No. CAN 1 of 2019(Old CAN No. 5527 of 2019)
CAN 2 of 2019(Old CAN No. 5528 of 2019)

The District Project Officer(SSM), 24 Paragans
Vs.
Paritosh Halдар & Ors.

with
WPA 3073 of 2018

Paritosh Halдар
Vs.
The State of West Bengal & Ors.

Ms. Tuli Sinha
... For the Appellant

Mr. Chittapriya Ghosh
Mr. Kuntal Ray
Mr. Somesh Kumar Ghosh
... For the Respondent no. 1/
Writ petitioner

Re: CAN 2 of 2019(Old CAN No. 5528 of 2019)
(Condonation of Delay)

1. There is a delay of 178 days in presenting the memorandum of appeal.
2. We are satisfied with the explanation offered for not being able to file the memorandum of appeal within the statutory period, we are inclined to condone the delay in presenting the memorandum of appeal.
3. The application for condonation of delay is, thus, allowed without any order as to costs.
4. CAN 2 of 2019 is thus disposed of.

Re: MAT 763 of 2019

1. Now we are taking the appeal along with application for stay. We have heard the learned counsel appearing for the parties.

2. The issue involved in this appeal is similar to the issue we have decided recently on 17th January, 2024 in MAT 425 of 2020 with CAN 1 of 2020 and CAN 3 of 2023 (The State Project Director, Paschim Banga, Sarva Sikha Mission & Ors. Vs. Uttam Kumar Naskar & Ors.). Indisputably, the petitioner was engaged by the Sarba Sikha Mission and allowed to continue upto the age of 60 years. The dispute arose with regard to the non-payment of honorarium between 2014 to 2017. In the affidavit the writ petitioner has disclosed that due to breathing difficulty and other lung related problem he was irregular during the period 2016 and the respondent authorities did not verify the medical papers of 2016 and 2017 i.e. after receiving reply of show cause notice.

3. In 2018 the petitioner had fully recovered from the said deceased. Be that as it may, since he had resumed duties on and from January 2018 and in terms of the order passed by the

learned Single Judge, we are of the view that the petitioner should be entitled to the salary from the date of his joining till date. The arrear salary shall be released, if not paid, within a period of four weeks from date. For the period for which he was not paid the salary, the authorities may consider the medical papers submitted by the petitioner and decide whether the explanation offered by the petitioner may justify for reconsideration of the issue of non-payment of honorarium. This decision shall be taken within a period of four weeks from the date of communication by the petitioner along with his representation accompanied by medical documents.

4. Mr. Chittapriya Ghosh, learned counsel appearing on behalf of the petitioner, prays that in view of the aforesaid order the writ petition may also be disposed of. The said prayer of Mr. Ghosh is not opposed by the appellant/State.

5. Under such circumstances, the appeal being MAT 763 of 2019 stands disposed of along with the writ petition.

6. In view of the disposal of the appeal, nothing remains to be decided in the application

for stay being CAN 1 of 2019 (Old CAN No. 5527 of 2019) and the same is accordingly disposed of.

7. However, there shall be no order as to costs.

8. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

