

10.07.2024
sayandeep
Sl. No. 26
Ct. No. 08

MAT 1203 of 2024
With
CAN 1 of 2024, CAN 2 of 2024

Prasenjit Mahato
Vs.
The State of West Bengal & ors.

Mr. Swagata Datta	 for the appellant
Mr. Shamimul Bari	
Ms. Indrani Nandi	 for the State
Mr. Sunit Kr. Roy	... for the SSC
Ms. Koyeli Bhattacharyya	
Mr. Bibek Dutta	... for the WBBSE

The stale claim is sought to be resuscitated after more than a decade by approaching the writ Court challenging the order of termination dated 25.04.2006. The petitioner was given appointment as Assistant Teacher in the Secondary School as reserved category candidate and worked for nearly two years. Subsequently, the serious allegation was made over the Caste Certificate submitted by the appellant and a proceeding was initiated by the appropriate authority being the Cancellation Proceeding case No. 13 of 2004. The Sub-Divisional Officer found that the Caste Certificate issued by the department is improper and cancelled the same by an order dated November 8, 2004. There was no challenge to the said order as the appellant remained silent; obviously for the reason that

he was still working as an Assistant Teacher. Subsequently, the said order was brought to the notice of the Managing Committee of the said School and by the impugned order dated 25.04.2006, the service of the appellant was terminated. Even thereafter the petitioner did not raise any objection nor challenged the said order of termination and it is only in 2022, an application under Right to Information Act was filed seeking information on the queries so made and after receiving the reply deadwood is sought to be given a fresh life by approaching the writ Court. Astonishingly, apart from an order of termination, the petitioner has claimed salary for all such period for which he admittedly did not discharge duties.

The order of termination is a still staring at the face of the appellant and such order cannot be interfered after such an enormous lapse of time. Though there is no period of limitation provided under the Limitation Act for filing an application under Article 226 of the Constitution of India, the constant views has been taken by the Courts that the delay and laches can be a factor to deny the reliefs unless the case comes within the purview of the violation of the Fundamental Rights.

The petitioner got the job on the basis of a certificate under the reserved category and the said certificate was subsequently cancelled and the said order has not been interfered with. The consequent

steps taken by the School Authority in terminating the service of the petitioner on the basis thereof cannot be faulted with. The moment the foundation of appointment is declared illegal, the castle build thereupon cannot stand and has to fall as a consequential effect.

We thus do not find any merit in the appeal.

The appeal is thus dismissed without any order as to costs.

Accordingly, connected applications being CAN 1 of 2024 and CAN 2 of 2024 are also dismissed.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)