

24.09.2024
Sl. No.119
akd

**M. A. T. 1538 of 2024
(CAN 1 of 2024)
(CAN 2 of 2024)**

[Syed Abu Haswam Faijul Islam -Vs- Sulaiman Mondal & Ors.]

Mr. Kamalesh Bhattacharya
... .. for the appellant

Mr. Lutful Haque
Ms. Tahauina Khatun
... .. for respondent no.1/
writ petitioner

Mr. Sadhan Halder
Mr. Supriya Majumder
... .. for the State

Re : C. A. N. 1 of 2024

1. The application has been filed under Section 5 of the Limitation Act for condonation of delay.
2. Having considered the averments made in the application for condonation of delay and being satisfied with the explanation given, we are inclined to condone the delay in preferring the appeal.
3. The application being CAN 1 of 2024 is allowed.

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4. Appellant had applied for the post of Panchayat Samity Peon as a General category candidate. For reasons unknown he was appointed to the post reserved in OBC-A category candidate. Under such circumstances, respondent no.1/writ petitioner who is an OBC-A category candidate and had applied for the said post challenged the said appointment.

5. During hearing, respondent authorities contended they had erroneously treated the appellant as an OBC-A category candidate and appointed him to the reserved post.
6. Hon'ble Single Judge held due to mistake on the part of the respondent authorities no right accrues to the appellant to continue in the said post. Accordingly, the writ petition was allowed and his appointment was cancelled.
7. Mr. Kamallesh Bhattacharya contends appellant ought not to be penalized for the mistake on the part of the authorities concerned.
8. The issue raised by Mr. Bhattacharya has been considered by the Hon'ble Single Judge while cancelling the appointment of the appellant. Hon'ble Judge observed appellant need not refund the salaries paid to him while discharging his duties.
9. It cannot be the appellant's case that he would be entitled to continue in a reserved post to which he was appointed by mistake.
10. Under such circumstances, we find no merit in the appeal and the same is accordingly, dismissed.
11. In view of dismissal of the appeal, connected application being CAN 2 of 2024 is also disposed of.
12. Interim order, if any, shall stand vacated.
13. There shall be no order as to costs.
14. Let photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)