

18.07.2024
Item No.22
Ct. No.26
CHC
(disposed of)

FMA 51 of 2024
IA NO: CAN/1/2023

Buli Joarder
Vs.
The State of West Bengal & ors.

Mr. Tanmoy Mukherjee, Advocate
Mr. Manoranjan Jana, Advocate
Mr. Souvik Das, Advocate
Mr. Soumava Santra, Advocate
...for the appellant

Mr. Arjun Roy Mukherjee, Advocate
Ms. Tuli Sinha, Advocate
...for the State

1. Report submitted in compliance of the order dated May 13, 2024 filed in Court be taken on record.

2. Supplementary affidavit filed in Court be taken on record.

3. Appeal is against the order dated July 24, 2023 passed in W.P.A. 15486 of 2023.

4. By the impugned order, learned Single Judge did not entertain the writ petition after holding that serious disputed questions of facts were involved.

5. CAN/1/2023 is an application seeking stay of the impugned order.

6. The Court is informed that, all papers used before learned Single Judge are available in CAN/1/2023.

7. Appeal can be heard on the basis of the papers made available in record.

8. Learned advocate appearing for the State respondents does not object to the appeal being heard and decided finally.

9. Consequently, appeal is taken up for final consideration.

10. Husband of the appellant died-in-harness on May 28, 2022. Appellant applied for release of the death cum retirement benefit as also the grant of compassionate appointment. Request on both the scores were denied by the authorities on the ground that, deceased employee during his life time was guilty of defalcation of fund belonging to the organization.

11. No departmental proceeding was initiated during the life time of the deceased with regard to the so-called defalcation of the fund. As on the date of death, deceased employee was not found guilty. As noted above, far less than the deceased employee being held guilty, no departmental proceeding to such effect was initiated.

12. Therefore, the deceased employee must be held not to be guilty of the alleged defalcation of fund.

13. Consequently, the respondent authorities will proceed to disburse the death cum retiral benefit to the heirs and legal representatives of the deceased employee forthwith. It is expected that, there exists a scheme for compassionate appointment in respect of

the deceased employee. Application for compassionate appointment made by the appellant will therefore be considered in accordance with such scheme. Decision with regard to the same will be intimated to the appellant within a period of four weeks from date.

14. In view of the discussions above, impugned order dated July 24, 2023 is set aside.

15. FMA 51 of 2024 along with connected application being IA NO: CAN/1/2023 are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)