

MAT 1729 of 2024
with
IA No. CAN 1 of 2024
with
IA No. CAN 2 of 2024
(Life Insurance Corporation of India Vs.
Sukamal Bairagi & Ors.)

Ms. Tanushree Das Gupta
.... For the appellant

Mr. Chirantan Sarkar
Mr. Anousko Das
**.... For the writ petitioner/
respondent**

Re: IA No. CAN 1 of 2024

This is an application for condonation of delay in filing the instant appeal. Stamp Reporter of this Court reported that there occurred 41 days delay in filing the instant appeal.

Ms. Das Gupta, learned advocate, appearing for Life Insurance Corporation of India (in short, LIC) / the appellant herein, draws our attention to paragraphs 9 and 10 of the instant application being CAN 1 of 2024 and submits that on account of decision making process at different levels of LIC, such delay occurred and the same may be condoned.

Mr. Sarkar, learned advocate appearing for the writ petitioner/respondent no. 1 opposes such prayer for condonation of delay.

On perusal of the writ petition and after hearing the learned advocates, we are satisfied with the

explanation given towards the delay in preferring the present appeal.

Accordingly, such delay is condoned and the application being CAN 1 of 2024 is disposed of.

MAT 1729 of 2024
with
IA No. CAN 2 of 2024

The present appeal has been preferred by LICI challenging an order dated 25th June, 2024 passed by the learned single Judge in a writ petition being WPA 13310 of 2024. By the said order, the learned single Judge directed LICI *‘to keep one post under EWS category vacant till 30th September, 2024 to be filled up by the petitioner if the petitioner is able to produce EWS certificate for the year 2022-23 based on the petitioner’s family income for the financial year 2021-2022’.*

Ms. Das Gupta, learned advocate appearing for LICI submits that from the advertisement itself it would be explicit that the writ petitioner’s EWS certificate for the financial year 2022-23 was called for and the cut-off date was fixed as 1st January, 2023 towards fulfillment of all eligibility criteria. However, it would be explicit from the documents dated 12th June, 2023 and 16th February, 2024, annexed at pages 45 and 47 of the stay application that the writ petitioner/respondent no.1 herein failed to produce such certificate even after submitting an undertaking. The document annexed at page 80 of the stay application would reveal that the respondent no.1 himself applied for such certificate on

29th February, 2024. In view of such failure on the part of the respondent no.1 to produce the EWS certificate within time, the writ petition ought to have been dismissed.

She argues that the learned single Judge proceeded on the basis that LICl called upon the respondent no.1 to produce the certificate within four days and erroneously observed that the letters issued by LICl created confusion. The arguments, as advanced, were glossed over by the learned single Judge and no finding was returned on the same.

Mr. Sarkar, learned advocate appearing for the writ petitioner/respondent no.1 denies and disputes the contention of Ms. Das Gupta and submits that pursuant to the order passed by the learned single Judge, the EWS certificate for the financial year 2022-23 based on his family income for the financial year 2021-22 had already been produced before the authorities within the time as stipulated in the order and the said certificate was also duly accepted by LICl but his appointment has been illegally withheld till date.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

It appears that the learned single Judge did arrive at a finding that LICl cannot be said to have travelled beyond the employment notice on having asked for the

EWS certificate for the immediate preceding year which came to an end on 31st March, 2023. However, as by a letter dated 22nd February, 2024, annexed at page 115 of the stay application, the respondent no.1 was advised to submit his EWS certificate latest by 27th February, 2024, the learned single Judge rightly extended the time till 30th September, 2024 towards production of the EWS certificate for the year 2022-2023 based on the petitioner's family income for the financial year 2021-2022. Such discretion, as exercised by the learned single Judge, in favour of the writ petitioner is fortified with reasons.

The learned single Judge, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned, warranting interference of this Court.

In view thereof, the appeal and the connected application for appropriate order are dismissed.

There shall, however, be no order as to costs.

All parties shall act on the service copies of this order duly downloaded from the official website of this Court.

(Partha Sarathi Sen, J.) (Tapabrata Chakraborty, J.)