

21.02.2024  
SI No.23  
Court No.8  
(gc)

**MAT 2165 of 2023  
CAN 1 of 2023  
CAN 2 of 2023**

**Bapan Sutradhar  
Vs.  
Mackintosh Burn Limited & Ors.**

Mr. Joyak Kumar Gupta,  
Mr. Aniket Mitra  
...for the Appellant.  
Mr. Arnab Chakrabarty,  
Ms. Pragya Bhowmick  
...for the Respondents.

1. The affidavit of service filed in Court today  
is kept with the record.

**Re: CAN 1 of 2023**

2. There is a delay of 83 days in filing the  
memorandum of appeal.
3. Sufficient cause being shown for not being  
able to file the memorandum of appeal  
within the period of limitation.
4. The delay of 83 days in filing the  
memorandum of appeal is condoned.
5. Accordingly, the application for  
condonation of delay is allowed and  
disposed of.
6. Since no affidavit-in-opposition is filed, all  
allegations are deemed to have been  
denied.

**Re: MAT 2165 of 2023**  
**CAN 2 of 2023**

7. The appellant was appointed on compassionate ground on 26<sup>th</sup> May, 2022 but he left his duty on 15<sup>th</sup> June, 2022 and thereafter on December 20, 2022 he requested the General Manager/ respondent no.3 to allow him to join his work at Siliguri. The appellant claimed that despite his representation made on 20<sup>th</sup> December, 2022 and the subsequent representations on 17<sup>th</sup> February, 2023 and 11<sup>th</sup> April, 2023, the appellant was not allowed to join his duty.
8. The writ petitioner/appellant was informed by the respondent authorities by a letter dated 4<sup>th</sup> May, 2023 that during the period of probation, the petitioner left his duty without any intimation whatsoever and this amounted to abandoning of service.
9. It is submitted on behalf of the respondents that the petitioner was engaged as a contractual employee on probation. The question of maintainability of the writ petition was also raised.
10. We are not inclined to interfere with the order passed by the learned Single Judge. However, the respondent authorities may

treat the representation as a mercy petition and decide the said representation within four weeks from date.

11. With the aforesaid observation, the appeal and the application stand disposed of.

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

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

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**