

ML-22
10.06.2024
Court No.26
(AD)

MAT 2299 of 2023
With
IA No.: CAN 2 of 2024
with
IA No.: CAN 3 of 2024
Sanchaita Biswas (Das)
Vs.
State of West Bengal & Ors.

Ms. Meghla Das

... For the Appellant

*In Re.: **IA NO.: CAN 2 of 2024***

1. CAN 2 of 2024 is an application seeking recall of the order dated February 21, 2024 by which the appeal and the connected application was dismissed for default.
2. For the ends of justice, the causes shown in the application are accepted as sufficient.
3. The order of dismissal dated February 21, 2024 is recalled.
4. CAN 2 of 2024 is disposed of.
5. MAT 2299 of 2023 along with the connected application are restored to its original file and number.

*In Re.: **IA No.: CAN 3 of 2024***

6. CAN 3 of 2024 is an application for condonation of delay of 41 days in making and filing the appeal.
7. Again, for the ends of justice, the delay of 41 days in filing the appeal is condoned on the basis of averments made in the petition of condonation.

8. CAN 3 of 2024 is disposed of accordingly.

*In Re.: **IA No.: CAN 1 of 2023***

9. CAN 1 of 2023 is an application seeking stay of the impugned judgment and order dated September 18, 2023 passed in WPA 1390 of 2023.
10. Learned Advocate appearing for the appellant is requested to address the Court on the merits of the appeal which she does.
11. Learned Advocate appearing for the appellant submits that, the appellant and the private respondent participated in a selection process which prescribed a “service area” for participation. The Admit Card of the private respondent specified an area which did not come within the ambit of the defined “service area” in the selection process. Consequently, according to her, since the appellant was the only candidate participating in such selection process, the employment should be granted to the appellant. Learned Trial Judge erred in not doing so.
12. We perused the materials made available on record.
13. By the impugned order dated September 18, 2023, the learned Single Judge was pleased to dismiss the writ petition. The writ petition was at the behest of the appellant. Appellant applied for engagement as Accredited Social Health Activist (ASHA) Karmee for Sub-Centres – Singhrati, Gram

Panchayat – Hadipur Jhikra-I, Block- Deganga, District- Barasat (Sadar), North 24 Parganas. The private respondent also participated in such selection process. An interview was held in which, the private respondent secured better marks than the appellant before us.

14. The only issue remained was whether the private respondent's residence was within the "service area" as defined in the advertisement relating to the selection process. To such effect, the learned Single Judge called for a report from the District Magistrate. The report of the District Magistrate stated that both the appellant and the private respondent were residents of Village-Jhikra Colony, P.O. Azizpur, P.S. Deganga, District-North 24 Parganas and within the local area of Hadipur Jhikra-1 Gram Panchayat, Singhrati Sub-Centre. A joint enquiry was held by the Block Development Officer as well as the Block Medical Officer of Health and Secretary.
15. In view of such clinching evidence, the learned Single Judge held that, the point with regard to the private respondent not coming within the "service area" was unfounded. Significantly, the report of the District Magistrate as called for by the learned Single Judge was not challenged by the appellant. There is no material placed on record to suggest that the report of the District

Magistrate is wrong.

16. In such circumstances, we find no merit in the present appeal.
17. **MAT 2299 of 2023** along with **CAN 1 of 2023** is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)