

16.05.2024
Item No.3
gd/ssd

MAT/2323/2023
CAN/1/2023, CAN/2/2023,
CAN/3/2023
M/D. SALMAN SK.
VS
MIJANUR RAHAMAN MOLLA AND ORS.

Syed Neaz Ahmed
..for the Appellant.

Mr. Tushar Kanti Mukherjee
..for the Respondent/
Writ Petitioner.

Re: CAN 1 of 2023

1. In this application one of the prayers is to grant leave to the appellant to prefer an appeal against the order dated 18th August, 2022 in WPA 17565 of 2021.

2. Since the direction issued though appears to be an innocuous direction has affected the rights of the appellant and the appellant being not a party to the writ petition is justified for seeking leave to file this appeal, accordingly, leave is granted to the appellant to file this appeal.

3. In view thereof, this application being CAN 1 of 2023 is allowed.

Re: CAN 3 of 2023

4. This application has been filed by the appellant seeking condonation of delay in filing this appeal.

5. Since the applicant was not a party to the writ petition and not aware of the order, he was unable to file the appeal within time. The explanation offered is acceptable and, therefore, the application is allowed. The delay in filing the appeal is condoned.

Re: MAT 2323 of 2023

6. This intra court appeal is directed against the order dated 18th August, 2022 in WPA 17565 of 2021.

7. By the said order the representation given by the respondent/writ petitioner was directed to be considered after giving an opportunity of hearing to the writ petitioner and other necessary parties, if any, in accordance with law as early as possible, preferably within a period of eight weeks along with similar applications, if pending before the said authority.

8. The specific case of the appellant is that the list of applications was short listed and the name of the appellant herein was in serial no.1.

9. However, the appellant was not heard when the representation of the respondent/writ petitioner was taken up for consideration by the authority

pursuant to the order passed in the writ petition dated 18th August, 2022.

10. The appellant has another grievance that though the direction was to consider the representation, the authority has provisionally appointed the writ petitioner to the said Post of MMR under the Pujali Police Station area in the district of South 24-Parganas.

11. It is submitted by the learned advocate for the appellant that one other person who was also short listed along with the appellant has filed a review application to review the order and direction in WPA 17565 of 2021 in Review Application No.310 of 2023 and the said review application is pending.

12. Since it appears that the parties were required to be heard in the matter were not heard by the authority, we are of the view that all further proceedings pursuant to the provisional appointment given to the respondent/writ petitioner shall be kept in abeyance and the appellant is granted leave to file a review application to review the order and direction in WPA 17565 of 2021 dated 18th August, 2022.

13. If such application is filed, the learned Single Bench is requested to consider the facts while considering the application for condonation of delay.

14. In the review application the appellant is entitled to canvass all issues which will be considered

and orders will be passed on merits and in accordance with law.

15. The appellant is granted leave to file the review application along with the server copy of this order.

16. With the above directions, the appeal stands disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)