

06.05.2025
Item No.51
gd/ssd

MAT/58/2025
NATIONAL INSTITUTE OF BIOMEDICAL
GENOMICS SERVICE THROUGH THE DIRECTOR
AND ORS.
VS
DR. SAMSIDDHI BHATTACHAERJEE AND ORS.
IA NO: CAN/1/2025, CAN/2/2025

Mr. Gouranga Kr. Das,
Ms. Poulami Dutta
..for the Appellants.

Mr. Victor Chatterjee
..for the Respondent Nos.1 and 2.

Re: CAN 1 of 2025

1. This application has been filed by the appellants seeking condonation of delay of 258 days in filing this appeal.

2. Learned counsel for the appellants have referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellants were prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 1 of 2025 is accordingly, allowed.
The delay in filing the appeal is condoned.

Re: MAT 58 of 2025

5. This intra court appeal is directed against the order dated 1st April, 2024 passed in WPA 8329 of 2024 which was filed by the respondent/writ petitioners.

6. The respondent/writ petitioners challenged the action taken by the appellants in recovering the reallocation allowance given by the appellants to the respondents for joining the Post of Assistant Professor in the appellant/Institution by reallocating themselves from Canada and USA to Kalyani, West Bengal.

7. The only reason for initiating recovery proceedings that too after 11 years is on the ground that the appellant no.1 is an autonomous body and their Rules do not permit such payment. Firstly, the amount was paid to the respondent/writ petitioners by the appellants on the ground that the respondent/writ petitioners will be entitled for reimbursement. This is evident from the e-mail sent to the respondent/writ petitioners by the appellant/Department dated 23rd May, 2011 and dated 23rd January, 2012.

8. That apart, there is no allegation that the writ petitioners made a misrepresentation and obtained the amount and if such be the case, the question of reimbursement would not arise. More particularly, when the appellants themselves have informed the writ petitioners that they are entitled for reimbursement of the reallocation expenses.

9. The learned Single Bench rightly took note of the decision of the Hon'ble Supreme Court in the case of *State of Punjab & Others v. Rafiq Masih (White Washer) & Others* in (2015) 4 SCC 334.

10. More particularly, the recovery was commenced nearly 12 years after the allowance was reimbursed.

11. Therefore, the learned Single Bench was fully right in allowing the writ petition and the order does not call for any interference.

12. Accordingly, the appeal fails and dismissed.

13. The affidavit of service is kept on record.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(CHAITALI CHATTERJEE (DAS), J.)