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01.08.2025
Ct. No. 11
rrc

FMA 1196 of 2022
with
IA No. CAN 1 of 2022
a n d
IA No. CAN 2 of 2022
(Suman Kumar Mandal Vs. The State of
West Bengal & Ors.)

Mr. Sakti Pada Jana
Mr. Subhajyoti Das
Ms. Sudipta Pramanik

.... For the appellant

Mr. Avishek Prasad

..... For the State respondents

Ms. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja

..... For the WBBSE

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 20th January, 2022 passed by the learned single Judge in the writ petition being WPA 54 of 2022 which was preferred by the writ petitioner/appellant herein, namely, Suman Kumar Mandal (in short, Suman), *inter alia*, praying for issuance of necessary direction upon the respondents to allow him to resume his duties as assistant teacher of Jagtala Surjya Kumar Vidyalaya (hereinafter referred to as the said school). By the order impugned, the writ petition was dismissed as Suman had approached the Court belatedly.

Mr. Jana, learned advocate appearing for the appellant prays for leave to withdraw the application for

condonation of delay, as the same had been filed inadvertently. In view thereof, the said application, being IA No. CAN 1 of 2022 is dismissed as withdrawn.

Mr. Jana contends that Suman upon being recommended by the West Bengal Regional School Service Commission, was appointed to the post of assistant teacher in the said school on 8th October, 2007, as would be explicit from the letter issued by the Secretary of the said school, as annexed at page – 31 of the stay application. Since his appointment, Suman discharged his services in the said school uninterruptedly till 1st February, 2017. Subsequent thereto, he could not resume his duties as his father expired on 8th March, 2015 and his mother was suffering from severe ailments. Such fact was brought to the notice of the school authorities by repeated representations, the last of which was submitted on 8th September, 2019. However, the school authorities did not consider the same and as such, he was constrained to approach the writ Court.

He submits that the explanation given by Suman for his absence in the said school was not considered by the learned single Judge and the writ petition was summarily dismissed.

Drawing our attention to the Leave Rules, Mr. Jana submits that the authorities were under an obligation to at least consider the reasons for which Suman was

prevented from joining his duties. Such arguments, as advanced, were glossed over by the learned single Judge.

Mr. Jana apprises this Court that during pendency of the present appeal, Suman was called for a hearing by the Secretary of the West Bengal Board of Secondary Education (hereinafter referred to as the Board), however, such hearing was adjourned on three occasions due to pendency of the present appeal. Let the notices issued to Suman by the Deputy Secretary (General) of the Board, as placed, be kept on record. Copies of the same have been handed over to Ms. Bhattacharyya, learned advocate appearing for the Board.

Ms. Bhattacharyya submits that there is no infirmity in the order impugned and Suman's claim was rightly rejected since he had approached the writ Court belatedly without explaining the delay.

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

It appears that during the pendency of the appeal, Suman as well as the school authorities were issued notices dated 10th December, 2024, 4th February, 2025 and 12th March, 2025 to appear for hearing before the Secretary of the Board. However, such hearing was repeatedly adjourned due to pendency of the present appeal.

In view thereof, we are of the opinion that no useful purpose will be served by keeping the appeal and the connected application pending and the matter needs to be relegated to the competent authority for consideration and issuance of appropriate orders.

Accordingly, this Court directs the Secretary of the Board to issue a fresh notice, within a period of four weeks from the date of communication of this order, intimating a date of hearing to Suman as well as the school authorities and on the stipulated date, the Secretary of the Board, upon granting an opportunity of hearing to the school authorities and Suman, shall pass a reasoned order, in accordance with law, without being influenced by the order impugned in the present appeal and communicate the said order to Suman and the school authorities, within a period of 4 (four) weeks thereafter.

With the above observations and directions the appeal and the connected stay application being CAN 2 of 2022 are, accordingly, disposed of.

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

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

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)