

10.03.2025.
Court No.13
Item No. 11
Pk

MAT 962 of 2023
CAN 1 of 2023
With
CAN 2 of 2023

Gopal Chandra Roy
Versus
State of West Bengal & Ors.

Mr. Suman Banerjee,
Ms. Shreejita Sen,
Mr. Saiful Alam

...For the appellant.

Mr. Srijan Nayak,
Mr. Debjit Mukherjee

... For the WBSEDCL

In Re: CAN 1 of 2023 (Sec.5)

1. This is an application filed under Section 5 of the Limitation Act, 1963 for condonation of delay of about 161 days in preferring the appeal.
2. Having heard the learned Advocate appearing on behalf of the respective parties, as also considering the statements made in the said application, we are satisfied with the grounds indicated explaining delay of 161 days in preferring the appeal.
3. There is also a substantial question of law arising for consideration in the instant matter.
4. Therefore, delay is condoned.
5. The application for condonation of delay being CAN 1 of 2023 is, thus, allowed and disposed of.
6. There will be, however, no order as to costs.

Re: MAT 962 of 2023

1. The appeal is directed against an order dated 23.11.2022 passed by a Single Bench of this Court in WPA 22523 of 2022 (Gopal Chandra Roy Vs. WBSEDCL and others).
2. The brief facts of the case are that the appellant is the son of a deceased Senior Linesman attached to Birbhum (D) Circle Office of the WBSEDCL, who died in harness on 25th August, 2005. The deceased employee completed 20 years of service as on the date of his death.
3. The appellant applied for compassionate employment, but his case was rejected on the ground that the applicable circulars dated 16.04.2010 and 04.09.2010 prescribed an upper age limit of 30 years for the dependents of the deceased other than the spouse. However, for the spouse the upper age limit prescribed is 40 years.
4. Learned advocate for the appellant would argue that the prescription of upper age limit of 40 years for the spouse and 30 years for other dependents constitutes unreasonable classification and unintelligible differentia. There is no rational nexus with the object of providing compassionate employment to the dependents of a deceased

employee, who died-in-harness i.e. saving the family from financial crisis.

5. Even otherwise in the instant case, the two circulars which provide for compassionate employment confer a right to the same since they form part of a specific scheme for such compassionate employment. This is in deviation of the normal principle that compassionate employment is not a matter of right.
6. The appellant in prayer “B” to the writ petition has specifically challenged the legality and vires of the differentiation between the upper age limit for spouse being 40 and 30 for other dependents.
7. It appears that the learned Single Bench has not addressed the issue of the aforesaid illegality or the vires of the aforesaid two circulars of the WBSEDCL.
8. In those circumstances, the impugned order dated 23.11.2022 is set aside.
9. The appellant is granted leave to amend the writ petition to challenge the appropriate circulars.
10. Let notice of the amended writ petition be served on the learned Advocate General.
11. The respondents may use affidavit-in-opposition to the writ petition within two weeks from the date of service of the amended writ petition. Reply, if any, be filed within one week thereafter.

12. The learned Single Bench is requested to take up the writ petition for hearing at an early stage subject to its business permitting, given the fact that the appellant only seeks compassionate employment and with each passing day the financial crisis of the family will only increase.
13. With the aforesaid directions, the instant appeal is allowed and disposed of.
14. In view of disposal of the appeal itself, connected application being CAN 2 of 2023 is also disposed of.
15. There will be no order as to costs.
16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)