

04.11.2025
Item No.14
Court No.11
KCP

**MAT 1015 of 2025
with
IA No.CAN 1 of 2025
with
IA No.CAN 2 of 2025**

**Sri Bidesh Samanta
- Versus -
The State of West Bengal & Ors.**

Mr. Debasis Sur
Mr. Dilip Kumar Das
.... For the appellant

Mr. Swapan Banerjee, Ld. AGP
Mr. Sougata Mitra
..... For the State respondents

Mr. Dwarika Nath Mukherjee,
Mr. S. Mitra,
Mr. Pradip Kr. Ghosh.
.... For the added respondent

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

Re : CAN 2 of 2025

The affidavits exchanged between the parties in respect of the application for condonation of delay are taken on record.

As we have invited the parties to advance their arguments on merits, the delay in preferring the appeal is condoned.

Accordingly, the application for condonation of delay being CAN 2 of 2025 is disposed of.

MAT 1015 of 2025 along with CAN 1 of 2025

This appeal is directed against the order dated 14th August, 2024, passed in WPA 17807 of 2024. By the said

order, the learned Single Judge declined to accept the petitioner's contention and dismissed the writ petition.

Mr. Sur, learned advocate appearing for the writ petitioner/appellant, submits that the petitioner is the husband of the deceased teacher, who died in harness. The petitioner was dependent on her earnings and is presently facing acute financial hardship. Accordingly, he applied for compassionate appointment. However, the mother and sister of the deceased vehemently opposed his claim and even denied the fact of the marriage.

He submits that, in support of the marriage, the petitioner produced the marriage certificate, and even in the death certificate of the teacher, the petitioner's name is recorded as her husband. He further submits that photographs of the marriage ceremony have also been brought on record.

However, he contends that the learned Single Judge glossed over those documents and arrived at an erroneous conclusion, holding that since the fact of marriage was in dispute, the writ Court ought not to have entered into that issue, and consequently refused to entertain the writ petition.

He prays that the matter be remitted to the concerned authority with a direction to consider the documents produced by the petitioner in support of the marriage and to consider the case of his appointment on compassionate ground.

Mr. Mitra, learned advocate appearing for the private respondent, vehemently opposes such contention. He submits that no such marriage ever took place and that the petitioner has manufactured certain documents and photographs and produced the same before the Court. He further submits that in the service records of the deceased teacher, there is no reference to the name of the petitioner.

Mr. Banerjee, learned Additional Government Pleader appearing for the State respondents, submits that the fact of the marriage has been seriously disputed by the mother of the deceased teacher. In view of the same, it raises a disputed question of fact, and as such, the writ Court should refrain from entering into such an issue. Accordingly, the learned Court below rightly declined to exercise its discretionary jurisdiction.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Indisputably, the mother of the deceased teacher has denied the factum of marriage. From the submissions advanced on behalf of the respective parties, it appears that the service records of the deceased teacher do not contain the name of the petitioner. The petitioner, however, claims that the marriage had in fact taken place and, in support thereof, has produced certain certificates and photocopies. In such circumstances, the rival claims of the parties clearly give rise to a disputed question of fact, the determination of

which would require evidence to be adduced and appropriately evaluated.

Therefore, we are of the opinion that the learned Single Judge has rightly refused to entertain the writ petition and to exercise its discretion in favour of the petitioner.

Accordingly, we do not find any justification to interfere with the order under challenge in this appeal.

The appeal and the connected application are, therefore, dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)