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14.08.2025
Ct. No. 11
rrc

MAT 1808 of 2024
with
IA No. CAN 1 of 2024
and
IA No. CAN 2 of 2024

(Md. Masud Rana Vs. The State of West Bengal & Ors.)

Mr. Habibur Rahaman

.... For the appellant

Mr. Arindam Chattopadhyay

Ms. Lipika Chatterjee

..... For the State Respondents

Sk. Nayeemul Hoque

Ms. Tapati Sarkar

..... For the DPSC, Murshidabad

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

As we have invited the parties to argue on merits of the matter, the delay in filing the appeal is condoned and the application for condonation of delay being IA No. CAN 2 of 2024 is disposed of.

The present appeal has been preferred challenging an order dated 4th March, 2024 passed by the learned single Judge in a writ petition being WPA 4967 of 2021 which was preferred by the writ petitioner/appellant herein challenging an order dated 18th June, 2019 by which the respondent no. 3 herein rejected the appellant's claim for compassionate appointment.

The facts are not disputed. The appellant's mother died in-harness on 10th March, 2010 while working in the post of an assistant teacher at No. 3, Jharu Para Primary

School (hereinafter referred to as the said school) leaving behind five sons and one daughter. The appellant herein, namely, Md. Masud Rana (in short, Masud) happens to be the fourth son of the deceased. To tide over the financial distress due to the loss of the sole earning member, Masud submitted an application for compassionate appointment which was rejected by an order dated 23rd August, 2016 issued by the respondent no. 5. Challenging the same, Masud preferred a writ petition being WP No. 22825 (W) of 2017 which was disposed of by an order dated 19th February, 2019 setting aside the order impugned and directing the respondent no. 3 herein to consider Masud's claim and take a decision. Pursuant thereto, the respondent no. 3 passed an order dated 18th June, 2019 refusing Masud's prayer. The writ petition preferred challenging the said order was dismissed by the order impugned in the present appeal.

Mr. Rahaman, learned advocate appearing for the appellant strenuously argues that Masud's claim has been rejected on the basis of an erroneous finding that the gratuity amount of the deceased was equally distributed and received by all the members of the family and on such misconception and applying the provisions of a government order dated 31st August, 2016, Masud's claim was rejected though the records would reveal that the entire gratuity amount was received by the youngest

son of the deceased, namely, Md. Mijanur Rahaman (in short, Mijanur). In support of such contention reliance has been placed upon an extract of the bank statement of Mijanur which reflects that an amount of ₹1,65,576/- was credited to Mijanur's account. Such fact was glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Rahaman further submits that the appellant's brothers, who are employed, are leaving separately and the appellant has no source of survival. The delay in consideration of the appellant's claim is directly attributable to the respondents. Without delving into the detailed facts, Masud's claim was rejected merely upon observing that compassionate appointment is not a source of employment and that such appointment cannot be claimed as a matter of right.

Mr. Chattopadhyay, learned advocate appearing for the State respondents, however, denies and disputes the contention of Mr. Rahaman and submits that it cannot be ruled out that the gratuity amount of the deceased teacher was equally received by all her heirs inasmuch as Mijanur, as the youngest son, may have been a nominee to receive the gratuity amount.

He further submits that the teacher expired in the year 2010. The second son and the third son of the

deceased are admittedly in the government employment. The youngest son, who was a minor at the time of the death of the teacher, obtained family pension till he attained majority in the year 2023. The sole daughter of the deceased is also married. In the said conspectus, the learned single Judge arrived at a finding that the family of the deceased was not in a penury or extreme financial distress.

We do not find any infirmity in the order passed by the learned single Judge and that as such, no interference is called for.

The appeal and the connected application for stay being IA No. CAN 1 of 2024 are, accordingly, dismissed.

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.)