

13 03.04.2025

Ct-08

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MAT 1981 of 2024

with

IA No. CAN 1 of 2024

CAN 2 of 2024

Avik Chakraborty

Vs.

State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv

Mr. Raju Bhattacharyya

... For the Appellant

Mr. Biplab Guha

Mr. Subrata Das Gupta

... For the State

Re: CAN 2 of 2024(Section 5)

1. There is a delay of 55 days in presenting the memorandum of appeal.
2. We are satisfied with the explanations offered in the said application for not being able to file the memorandum of appeal within the statutory period, we are inclined to condone the delay in presenting the memorandum of appeal.
3. The application for condonation of delay is thus allowed without any order as to costs.
4. CAN 2 of 2024 is thus disposed of.

Re: MAT 1981 of 2024

1. The appeal is arising out of an order dated 12th July, 2024 passed in WPA No. 11280 of 2024 in which the appellant/petitioner has prayed for compassionate appointment. Learned Single Judge instead of directing the authorities to

consider the application on merits dismissed the writ petition without calling for an affidavit relying upon the decision of the Hon'ble Supreme Court in ***State of West Bengal Vs. Debabrata Tewari***, reported in ***2023 Live Law SC 175***.

2. We are of the view that the learned Judge could not have decided the writ petition without calling for an affidavit and dismissed it on the basis of the observation made in paragraph 7 of ***Debabrata Tewari (supra)***. It is an admitted position that the petitioner's father died on 14th September, 2019 and when the petitioner/appellant applied for compassionate appointment on 20th July, 2021 he was 17 years 6 months and 13 days old. The observation that immediacy of financial stringency cannot continue after two years of the death of his father was a presumption without finding out the real financial condition of the family after the death of the sole bread earner. If the appellant is entitled to apply for compassionate appointment and there is a scheme existing for compassionate appointment, the authorities are required to decide the said application in terms of the scheme.

3. The petitioner made an application for compassionate appointment immediately after he attained majority and he made proforma

submission on 20th July, 2021 in Memo No. 63 stating the particulars of the deceased teacher. The grievance of the petitioner was that his application dated 19th July, 2021 was not disposed of. The delay in processing the application cannot be held against the writ petitioner.

4. Accordingly, we dispose of the appeal by directing the Chairman, District Primacy School Council to dispose of the representation dated 19th July, 2021 forward to him by the Sub-Inspector of Schools, Raiganj East Circle on 25th March, 2022 within four weeks from the date of communication of the order by either of the parties by passing a reasoned order after giving an reasonable opportunity of hearing to the appellant. The final decision shall be communicated to the appellant within one week from the date of passing of such reasoned order.

5. In view of disposal of the appeal nothing remains to be decided in the application for stay and the same is accordingly disposed of.

6. The impugned order is accordingly set aside.
7. Urgent Photostat copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Smita Das De, J.)