

13.05.2026
Item No.08
Court No.11
Avijit Mitra

**MAT 1435 of 2022
with
IA No.CAN 1 of 2022
with
IA No.CAN 2 of 2022**

**Smt. Jhuma Das & anr.
- Versus –
The State of West Bengal & ors.**

Md. Salahuddin,
Md. Rajiuddin

....for the appellants

Mr. Sarwar Jahan,
Sk. Nayeemul Hoque

.... for the D.P.S.C., Murshidabad

Affidavit of service filed by the appellants is taken on record.

In re : IA No.CAN 2 of 2022

This is an application for condonation of delay. There is a delay of 41 days in preferring this appeal.

Mr. Salahuddin, learned advocate appearing for the appellants, submits that there has been no intentional laches and/or negligence in preferring the appeal and that the delay was caused due to reasons beyond the control of the appellants.

He further submits that the appellants have every chance of success in the appeal and that such a meritorious matter should not to be thrown out at the threshold.

Mr. Jahan, learned advocate appearing for the District Primary School Council, Murshidabad (in short, DPSC), leaves the matter to the discretion of this Court.

Having noted the submissions made on behalf of the respective parties and upon perusal of the averments made in the application explaining the delay in preferring the appeal, we are of the view that there was sufficient cause which prevented the appellants from preferring the appeal within the prescribed period of limitation. Accordingly, the delay is condoned.

CAN 2 of 2022 is allowed.

In re: MAT 1435 of 2022

The present appeal challenges the justifiability of the order dated 23rd June, 2022 passed by the learned Single Judge in WPA 3371 of 2010, whereby the writ petition was dismissed. Briefly stated, the facts leading to the presentation of the present appeal are that one Chittaranjan Das, since deceased, was an approved primary teacher under the Murshidabad District Primary School Council. He died-in harness on 26th December, 2004, leaving behind his widow and one minor daughter. In 2006, after obtaining 'no objection' from the other members of the family, the younger brother of the deceased employee submitted an application seeking his compassionate appointment on account of the death of the deceased teacher.

In response thereto, by a communication dated 25th January, 2007, the wife of the deceased teacher was informed that she could apply for such appointment according to her requisite qualification through the jurisdictional Sub-Inspector of Schools, if she so desired. Subsequent thereto, by an application dated 24th February, 2007, both the appellants submitted a joint application seeking compassionate

appointment in favour of appellant no. 2, namely, the younger brother of the deceased teacher. However, despite receipt of the said application, the same was not considered and as such, alleging inaction in consideration of the application dated 24th February, 2007, the writ petition was preferred which has been dismissed by the order under appeal.

Mr. Salahuddin, learned advocate appearing for the appellants, submits that due to the sudden death of the sole bread-earner of the family, the other family members were plunged into penury and, therefore, in order to enable the family to tide over the financial crisis, a direction be issued to appoint appellant no. 2 on compassionate ground.

He further submits that at the time of death, the deceased employee was survived by a two-year-old daughter and his wife, who had no definite source of income. He submits that taking note of such facts, appropriate directions should be issued to the concerned respondents to appoint the appellant no. 2 on compassionate grounds.

Mr. Jahan, learned advocate representing the DPSC, Murshidabad, vehemently opposes the contentions advanced by Mr. Salahuddin. He submits that in 2007, the widow was requested to submit an application seeking compassionate appointment for herself, but she chose not to do so and, instead, the younger brother of the deceased employee submitted the application seeking his compassionate appointment.

He further submits that the said brother cannot be treated as a dependent member of the family of the deceased employee and that he does not fall within the definition of

“family” for the purpose of the scheme governing grant of compassionate appointment.

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

Indisputably, the deceased teacher died-in-harness in 2004. In 2006, for the first time, the authorities were approached for grant of compassionate appointment in favour of appellant no. 2, i.e., the younger brother of the deceased teacher. Admittedly, by a communication dated 25th January, 2007, the Director of School Education informed that the widow could apply for compassionate appointment. However, the widow did not apply and, instead, a joint application was submitted praying for grant of compassionate appointment in favour of appellant no. 2, the younger brother of the deceased employee. The writ petition was filed in 2010 and, ultimately, by an order dated 23rd June, 2022, the same was dismissed.

Admittedly, compassionate appointment is not a matter of right, and its object is to provide succour to the dependent members of the deceased employee and to mitigate the financial hardship caused to the family due to the untimely death of its bread-earner. With the passage of time, immediacy for grant of compassionate appointment has diluted. Furthermore, the argument that the appellant no. 2, being the younger brother of the deceased employee, cannot be said to be a dependent of the family, and such a person cannot be granted appointment on compassionate ground on account of the death of his brother, as advanced by Mr. Jahan, cannot be brushed aside.

Therefore, taking note of these facts, we are of the view that the learned Single Judge has rightly negated the contention of the appellants, and dismissed the writ petitioner by the order impugned in the appeal. We do not find any sufficient justification to interfere with the same.

Accordingly, the appeal and the connected application are thus 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.)