
(2025) 12 CAL CK 0036

Calcutta HC

Case No: M.A.T. 1885 Of 2024

Nikhil Chandra Sarkar

APPELLANT

Vs

State of West Bengal & Ors

RESPONDENT

Date of Decision: Dec. 9, 2025

Hon'ble Judges: Debangsu Basak, J; Md. Shabbar Rashidi, J

Bench: Division Bench

Advocate: B.N. Ray, S. Ray, Shamim-Ul-Bari, Indrani Nandi, Souvick Mitra

Final Decision: Disposed Of

Judgement

Debangsu Basak, J

1. Appeal is at the behest of the writ petitioner and directed against order dated April 23, 2024 passed in W.P.A. 15471 of 2008.
2. There is an issue of limitation involved. Department reports a delay of 124 days in making and preparing the appeal.
3. Appellant by way of CAN 2 of 2024 seeks condonation of delay in making and filing the instant appeal.
4. In the application for condonation of delay, grounds made out are time taken for obtaining the certified copy as also the learned advocate and his clerk taken more time for making and preparing the appeal.
5. Grounds for condonation made out in the application are accepted. Delay in making and filing the appeal is condoned.
6. CAN 2 of 2024 is allowed.
7. Appeal is taken up for final hearing in presence of the parties.
8. Learned advocate appearing for the appellant submits that the appellant participated in a selection process for the purpose of appointment of Group-D staff.

9. He submits that the appellant was the first empanelled candidate.

10. Learned advocate appearing for the appellant refers to the various correspondences exchanged from time to time. He refers to the fact that prior permission to undertake the selection process was granted by the Administration in 1993. He submits that the selection process was challenged at various stages before the High Court. Thereafter, the selection process actually occurred in 2000. He points out that by the time, the Recruitment Rules of 1999 came into force. School authorities followed the 1999 Rules in view of the directions issued by the District Inspector of Schools. In support of such contention, he refers to a letter written by the school authorities to the District Inspector of School.

11. State and the school authorities are represented.

12. We find from the records that the issue as to grant of approval of the appointment received consideration of the High Court in the writ petition being W.P. No. 21610 (W) of 2007. Such writ petition was disposed of by an order dated December 12, 2007 requiring the District Inspector of Schools to take a decision strictly in accordance with law.

13. District Inspector of Schools by a writing dated June 4, 2008 negated the claim made by the appellant before us. The order dated June 4, 2008 of the District Inspector of Schools was assailed by the appellant by way of writ petition which resulted in the impugned order.

14. Primarily, the school authorities were permitted to undertake a selection process for appointment of a Group - D staff following the 1993 Rules. Prior permission was granted in 1994. For one reason or the other, the selection process was not completed until 2000. In the interregnum, the 1999 Rules came into force. There are some differences, although the appellant contends that the differences between the 1993 and 1999 Rules are not major or do not affect any right of the appellant in relation to the grant of approval.

15. With the deepest of respect, we find at the basic minimum, the 1993 Rules prescribe a higher number to be granted in respect of different stages. Be that as it may, the prior permission of 1994 required the school authorities to undertake the selection process under the 1993 Rules. School authorities however invoked the 1999 Rules for the selection process.

16. Explanation for change from the 1993 Rules to the 1999 Rules apparently is that there is a guideline to such effect issued subsequently. The guideline of 1999 speaks of supercession of the earlier Rules of 1993.

17. We do not find any materials on record to suggest that when the prior permission was granted in the 1994 Rules requiring 1993 Rules to be considered for the purpose of selection process, the 1999 Rules can be construed to override such condition imposed in the prior permission granted.

18. In view of the discussions above, we do not find any ground to interfere with the instant appeal.

19. M.A.T. 1885 of 2024 and the connected application being CAN 1 of 2024 are disposed of without any order as to costs.