

Court No. - 4

Case :- WRIT - A No. - 9717 of 2025

Petitioner :- Pradyuman

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Amit Kumar Singh

Counsel for Respondent :- C.S.C.

Hon'ble Ajit Kumar,J.

1. Heard Sri Amit Kumar Singh, learned counsel for the petitioner and learned Standing Counsel for the State respondents.

2. By means of this petition filed under Article 226 of the Constitution, petitioner has prayed for a direction to the respondent No.- 2 to decide his claim raised by way of representation for compassionate appointment.

3. It is submitted by learned counsel for the petitioner that petitioner has made representation on 2nd June, 2025 and further submitted that his father had died in harness in the year 2012, however, since he was minor at that stage he could not move an application but upon attaining the age of majority in the year 2018 he immediately approached the authority but no decision has been taken with regard to his claim till date.

4. *Per contra*, it is argued by learned Standing Counsel that since petitioner has not approached the Court in time and more than 15 years have expired since father of the petitioner had died and 7 years have expired since the petitioner had attained the majority, so no compassion can be shown at this stage to offer compassionate appointment to the petitioner under the Dying in Harness Rules.

5. Learned Standing Counsel has placed reliance upon the judgment of Supreme Court in the case of **State of West Bengal v. Debabrata Tiwari and others (SC)** Law Finder Doc Id # 2149428.

6. Having heard learned counsel for the respective parties and having perused the records, I find that the petitioner admittedly approached the authority for the first time in the year 2025 by making a written representation even though he may have made representation previously to the authority in 2018. A document has

been brought on record, which does not demonstrate any service of the representation made in the year 2018. In the circumstances, therefore, it would be taken that petitioner has approached the authority in the year 2025 itself for the first time even though he had attained the majority in the year 2018.

7. Besides above, it is a well settled principle of law in the matter of compassionate appointment that compassion is to be shown to the family to provide immediate succour on account of death of earning member of family. In those cases, where the dependents remained minor a sympathetic consideration is accorded but in that eventually the dependent claiming compassionate appointment should immediately approach the authority by making application upon attaining the age of majority.

8. Since in the present petition petitioner attained the age of majority in the year 2018 and failed to approach the authority and even failed to approach any court of law, I do not consider it to be a case where the grounds still remain to offer compassionate appointment to the petitioner. A family that survived crisis for more than 13-14 years, cannot be shown compassion any more as those circumstances do not exist as on date.

9. In the case of **Debabrata Tiwari** (*supra*), the Supreme Court vide paragraphs 35, 41, 45 and 46 has held thus:

"35. Considering the second question referred to above, in the first instance, regarding whether applications for compassionate appointment could be considered after a delay of several years, we are of the view that, in a case where, for reasons of prolonged delay, either on the part of the applicant in claiming compassionate appointment or the authorities in deciding such claim, the sense of immediacy is diluted and lost. Further, the financial circumstances of the family of the deceased, may have changed, for the better, since the time of the death of the government employee. In such circumstances, courts or other relevant authorities are to be guided by the fact that for such prolonged period of delay, the family of the deceased was able to sustain themselves, most probably by availing gainful employment from some other source. Granting compassionate appointment in such a case, as noted by this Court in Hakim Singh [Haryana SEB v. Hakim Singh, (1997) 8 SCC 85 : 1998 SCC (L&S) 31] would amount to treating a claim for compassionate appointment as though it were a matter of inheritance based on a line of succession which is contrary to the Constitution. Since compassionate appointment is not a vested right and the same is relative to the financial condition and hardship faced by the dependants of the deceased government employee as a consequence of his death, a claim for compassionate appointment may not be entertained after lapse of a considerable period of time since the death of the government employee.

41. Applying the said ratio to the facts of the present case, we hold that the

respondent-writ petitioners, upon submitting their applications in the year 2006-2005 did nothing further to pursue the matter, till the year 2015 i.e. for a period of ten years. Notwithstanding the tardy approach of the authorities of the appellant State in dealing with their applications, the respondent-writ petitioners delayed approaching the High Court seeking a writ in the nature of a mandamus against the authorities of the State. In fact, such a prolonged delay in approaching the High Court, may even be regarded as a waiver of a remedy, as discernible by the conduct of the respondent-writ petitioners. Such a delay would disentitle the respondent-writ petitioners to the discretionary relief under Article 226 of the Constitution. Further, the order of the High Court dated 17-3-2015 [Debabrata Tiwari v. State of W.B., WPA No. 3243 of 2015, order dated 17-3-2015 (Cal)] , whereby the writ petition filed by some of the respondents herein was disposed of with a direction to the Director of Local Bodies, Government of West Bengal to take a decision as to the appointment of the respondent-writ petitioners, cannot be considered to have the effect of revival of the cause of action.

45. In the present case, the applications for compassionate appointment were made by the respondent-writ petitioners in the year 2005-2006. Admittedly, the first concrete step taken by the Chairman of Burdwan Municipality was in the year 2013, when the said authority forwarded a list of candidates to be approved by the Director of Local Bodies, Burdwan Municipality. The respondent-writ petitioners knocked on the doors of the High Court of Calcutta only in the year 2015 i.e. after a lapse of nearly ten years from the date of making the application for compassionate appointment. The respondent-writ petitioners were not prudent enough to approach the courts sooner, claiming that no concrete step had been taken by the appellant State in furtherance of the application by seeking a writ in the nature of mandamus.

46. The sense of immediacy in the matter of compassionate appointment has been lost in the present case. This is attributable to the authorities of the appellant State as well as the respondent-writ petitioners. Now, entertaining a claim which was made in 2005-2006, in the year 2023, would be of no avail, because admittedly, the respondent-writ petitioners have been able to eke out a living even though they did not successfully get appointed to the services of the Municipality on compassionate grounds. Hence, we think that this are therefore not fit cases to direct that the claim of the respondent-writ petitioners for appointments on compassionate grounds, be considered or entertained."

10. In view of the above, this petition lacks merit and is accordingly, dismissed.

Order Date :- 16.7.2025

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