

04.09.2020
srm

**WPST No.66 of 2020
CAN 1 of 2020 (Old CAN 5067 of 2020)**

(Via Video Conference)

**Bandana Ghosh
Vs.
The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya

...for the Petitioner.

Mr. Joytosh Majumder,
Mr. Biswabrata Basu Mallick,
Ms. Kakali Samajpati

...for the State.

The writ petition is taken up for hearing through video conferencing in view of the urgency.

The application being CAN 1 of 2020 (Old CAN 5067 of 2020) is disposed of.

The petitioner is the elder daughter of Bhabani Sankar Bose, since deceased. He was survived by his wife and two daughters. Bandana Ghosh is a married daughter of the said deceased. The widow of the deceased made an application to the Deputy Commissioner of Police on 25th March, 2013 praying for compassionate appointment of Smt. Bandana Ghosh. The said application was rejected on 4th September, 2013 by the Deputy Commissioner of Police (II), Headquarters Kolkata on the ground that the married daughter has no claim

to get compassionate appointment. This order is under challenge.

In 2019, petitioner filed an application for compassionate appointment based on a decision of Special Bench judgment in WPST 447 of 2013 dated 13th September, 2017.

Mr. Anjan Bhattacharya, learned Counsel appearing on behalf of the petitioner submits that by reason of the said judgment the entire complexion with regard to the entitlement of a married daughter to claim compassionate appointment has changed and the circulars by which they were excluded has now been declared as included. Mr. Bhattacharya has submitted that the special leave petition against the said judgment was dismissed by the Hon'ble Supreme Court on 23rd July, 2019. It is submitted that in view of the settled position of law with regard to the entitlement of the petitioner the prayer for compassionate appointment by the department is required to be re-visited. Mr. Bhattacharya submits that since the representation was kept pending and the concerned authorities were not deciding the said issue, an application was filed before the West Bengal State Administrative Tribunal. It is submitted that the learned Tribunal instead of directing the authorities to decide the representation has

rejected the said application on the ground that the writ petitioner has not challenged the earlier order of rejection dated 4th September, 2013, moreover, the widow of the deceased is alive and is getting family pension.

Although in paragraph 111 of the Special Bench judgment has considered the case of the married daughters who may be considered for compassionate appointment but having regard to the fact that there has been no contemptuous challenge to the said order the writ petitioner cannot rely upon the Special Bench judgment passed almost after four years of the order of rejection to claim her right for compassionate appointment. There has been fresh representation after 25th March, 2013 since it is important for the petitioner to satisfy the authorities concerned that the conditions have not changed over the passage of time. The financial need has to be established to the satisfaction of the authorities concerned. The right to compassionate appointment is not vested right. The purpose of compassionate appointment is to ameliorate the financial distress that the family is likely to face due to the death of the sole bread earner. The writ petitioner had survived since 2013. There is nothing on record to show that there is actually a matrimonial discord or proceeding is pending in any court

of law. The judgment in paragraph 111 has stated that the married daughters to be entitled to any such compassionate appointment has to establish that they have been abandoned by their husbands and perforce have to take shelter in their paternal/maternal home and survive on the benevolence showered by their fathers. Moreover, we feel that the decision cannot give a cause of action to the writ petitioner to file the application for compassionate appointment after she has accepted the rejection order. she could have approached the appropriate forum against the order of rejection dated 4th September, 2013.

In such consideration, we are not inclined to interfere with the order passed by the learned Tribunal.

The writ petitioner stands dismissed.

There will be, however, no order as to costs.

Urgent certified website copies of this order, if applied for, be delivered to the parties, upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Saugata Bhattacharyya , J)