

18.09.2020
Srimanta/Mithun
Sl. No. 11
Ct. No. 03

IA No. : CAN/1/2020(Old No.CAN/5447/2020)
in
W. P. No. 6625 (W) of 2020
[Via Video Conference]

Salma Parvin
-Vs.-
State of West Bengal & Ors.

Mr. Siddhartha Banerjee, Adv.
Mr. Shaunak Ghosh, Adv.
Mr. Rajib Mullick, Adv.
...for the petitioner.

Mr. Tapan Kumar Mukherjee, Adv.,
...for the State.

The grievance of the petitioner is that she made an application for appointment to a relevant post in Government aided High Madrasah on compassionate ground on the death of his father while in service. It is pointed out by Mr. Banerjee, learned Advocate for the petitioner that District Inspector of School, Secondary Education, Malda was pleased to reject the application of the petitioner on the basis of notification No.697-ES/S/IS-18/08 dated 09.07.2009. According to Mr. Banerjee, the said notification was issued containing the rules under Section 17 of West Bengal School Service Commission Act, 1977. Since the father of the petitioner used to work in a recognized non-Governmental Aided Madrasah, West Bengal Madrasah Service Commission Act, 2008 and the Rules made thereunder vide No.1641-MD dated 11th November, 2010 is applicable. Therefore, the

petitioner's application may be dealt with under the relevant Act and Rules by the competent authority.

Mr. Mukherjee, learned Additional Government Pleader on behalf of the respondent submits that the father of the petitioner died on 26th February, 2006 and the application for compassionate appointment was made by the petitioner on 30th January, 2018 as the application was filed after a long lapse of delay the same cannot be entertained.

Be that as it may, it is not disputed that the competent authority wrongly applied the Rules of 2009 while rejecting the application filed by the petitioner vide order dated 7th July, 2020. Under such circumstances, I am inclined to give an opportunity to the petitioner to make representation before respondent No.2 within one month from the date and the respondent No.2 is directed to dispose of the representation that may be filed by the petitioner under notification No.1641-MD dated 11th November, 2010 in accordance with law.

The instant writ petition is disposed of with the above direction. The impugned order bearing No. 431/1(2)G(MLD)/SE dated 07.07.2020 be quashed.

This Court makes it clear that it has not considered or touched the merit of the application of the petitioner and it is left open to respondent No.2 to consider independently without being swayed over in any way by the instant order.

(Bibek Chaudhuri, J.)