

25-01-2021
ct no. 13
Sl.78
pk

WPA 1056 of 2021

Amit Das
Versus
**West Bengal State Co-operative Agricultural &
Rural Development Bank Ltd. and others**

Mr. Swapan Banerjee,
Mr. S. Mitra,
Ms. Ankita Dey

...for the petitioner

Mr. Malay Kumar Ray

... for the State.

The petitioner's father died on 14th May, 2014. The petitioner applied for compassionate employment in July 2014 and made repeated requests thereafter. The petitioner's request is finally rejected by order dated 28th January, 2020.

The Bank found that it was not in a position to decide as to whether the family of the deceased employee including the petitioner were in any penury or in destitution. The application was however rejected by reference to Clause 6A (ii)(II) and Clause 6B of the notification no. 251EMP dated December 3, 2013 of the Labour Department, West Bengal.

This Court finds that Clause 6A (ii)(II) referred to the service benefit of the deceased employee like gratuity and leave encashment as

also pension to be a factor to determine the financial condition of the family. There is no finding in this regard given by the Bank.

On the contrary, it was clearly stated that the Bank was not in a position to determine the financial condition of the family of late Santosh Kr. Das. The application, however, came to be rejected by invoking Clause 6B. Clause 6b indicates that for the purpose of compassionate employment on premature retirement, the deceased should have two or more years of service till left with the Bank.

It is now well-settled of the Hon'ble Supreme Court while assessing the financial condition of a family of a deceased employee for the purpose of compassionate employment, terminal benefits cannot be taken into consideration.

This Court further finds that Clause 6B of the circular refers to the premature retirement and not death. Invocation of Clause 6B to reject the case of the petitioner is, therefore, wholly suspect and this Court is unable to countenance the same. If the Government had decided to frame Rules to bar compassionate employment for a deceased employee, who had less than two years of service at the time of

death, the same could have been clearly specified within the stipulated Rules.

In those circumstances, this Court is of the view that the impugned order dated 20.01.2020 cannot be sustained and is hereby directed to be kept in abeyance permanently.

The West Bengal State Co-operative Agricultural Rural Development Bank, particularly, the Managing Director shall reconsider the case of the petitioner for compassionate employment within a period of two months from the date of communication of a copy of this order positively.

A reasoned order shall be passed by the said Managing Director of the Bank after a due enquiry is made on the financial condition of the family of the deceased without taking into consideration the terminal benefits of the deceased.

The petitioner shall furnish any further document as may be sought by the Bank. A reasoned order shall be communicated to the petitioner within seven days thereof.

It is submitted that the terminal benefits of the deceased have not yet been paid. The Bank shall ensure immediate release of terminal benefits, if not already paid. The Bank shall immediately communicate to the family of the

deceased in this regard to obtain any document that may be required.

This order has been passed on the oral prayer made by the counsel for the petitioner although prayer has been made only for release of pension, which scheme the bank does not have.

With the aforesaid directions, the instant writ petition is disposed of.

Let photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Rajasekhar Mantha, J.)