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No.
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2021

W.P.A. 1616 of 2021
Harekrishna Mondal
-Versus-
State of West Bengal & Ors.

Mr. Sunit Kumar Roy

...For the Petitioner

Mr. Pinaki Dhole
Mr. Pinaki Bhattacharjee

...For the State Respondents

This is an application under Article 226 of the Constitution of India wherein the writ petitioner is aggrieved by the rejection order dated December 08, 2020 passed by the District Inspector of Schools (S.E.), North 24-Parganas (hereinafter referred to as D.I. of Schools), in relation to a compassionate appointment of the petitioner due to death of his father, who was an employee of a School.

This is the third round of litigation. The matter to be considered this time is whether the reasoned order passed by the D.I. of Schools can stand on its own footing.

The petitioner contends that he is living with his widowed mother and two of his brothers are not providing any assistance to the widowed mother and himself. According to him, the cumulative income of his mother (Rs.7,404/-) and himself (Rs. 4,000/-), aggregates to Rs. 11,404/-. In the light of the same, the petitioner contends that the income of the family is less than the gross salary of a Group 'D' Staff of a School, that is Rs. 14,490/-.

I have perused the order passed by the D.I. of Schools and the D.I. of Schools that included incomes of both the other brothers. The reason for including the income of Radheshyam Mondal for a sum of Rs. 5,500/- is not stated in the order. There is no explanation for the said income nor is there any explanation regarding the occupation of Radheshyam Mondal. Accordingly, this addition is perverse

and is required to be struck out. With regard to the income of Ramkrishna Mondal, the order clearly states that the said Ramkrishna Mondal is a teacher in a School and based on the same his monthly income cumulatively comes to Rs. 17,844/-.

The contention of the petitioner that the brothers do not assist the family is an extraneous reason and as per rules, the addition made by the D.I. of Schools is correct. The fact that the brother does not in any manner support the family has not been proved by any cogent reasons. The document that has been annexed to the writ petition by the Block Development Officer that states that the petitioner is unemployed and lives with his widowed mother. It does not however state anywhere that the brothers do not support the family. Another letter of a Member of Legislative Assembly has been annexed to the writ petition to indicate that the petitioner is jobless, and therefore, it is recommended that he may be provided with a job. The above letters do not give reason enough to throw the Rules/Scheme of compassionate appointment into the Ganges and thereafter grant appointment to the petitioner.

One is to note that compassionate appointment is an exception to Articles 15 and Article 16 of the Constitution of India and has to be provided as per rules framed by the Government. It is to be noted that providing somebody with a job under compassionate appointment also results in taking away a job from a meritorious candidate.

It is in this light that the Hon'ble Supreme Court in the catena of decisions has held that the compassionate appointment has to be granted as per the rules, and if the applicant does not fall within the four corners of the rules, no

compassionate appointment can be granted.

In the light of the above reasons, I am unable to grant the petitioner any relief as monthly income of the petitioner's family far exceeds the gross salary of a Group 'D' staff.

Accordingly, the writ petition is dismissed without any order as to costs.

I would like to thank the learned Counsel appearing on behalf of the parties for the capable assistance provided to this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shekhar B. Saraf, J.)