

11.03.2021
Ct. No.13
Sl. No.145
akd

W.P.A. 1922 of 2016 [via video conference]

[Uttam Kumar Bauri -Vs- The State of West Bengal & Ors.]

Mr. Pankaj Halder
Mr. Sanatan Panja

... .. for the petitioner

Mr. Biswabrata Basu Mullick

... .. for the State

The writ petitioner is aggrieved by the order dated 24th September, 2015 passed by the Joint Secretary, Panchayat & Rural Development Department, Government of West Bengal. In terms of the said order the writ petitioner's request for compassionate employment has been rejected.

The facts of the case are that the petitioner's father died-in-harness on 16th October, 2009 as a Panchayat Karmee. He applied immediately thereafter for employment on compassionate grounds. By an order dated 19th October, 2010, the Joint Director, Panchayat & Rural Development Department, Government of West Bengal recommended the writ petitioner's claim for employment. Thereafter, the writ petitioner approached this Hon'ble court. By an order dated 29th July, 2013 passed in W.P. 16393(W) of 2013, a coordinate Bench directed the authorities to consider the petitioner's case for compassionate employment in terms of the notification dated 3rd February, 2009.

The petitioner would argue that in the year 2015 itself the three-man committee submitted the enquiry report to the Director, Panchayat & Rural Development Department, Government of West Bengal recommending the petitioner's case

for compassionate employment. It was found by the committee that a sum of Rs.7189/- was being received by the family. The family has a *kutcha* house on two decimals of land. All terminal benefits of the deceased nearing a sum of Rs. Four lakhs have been received.

It was found by the Director in the impugned order that the monthly income of the family does not fall below 90% of the gross monthly salary drawn by the deceased employee. There is reference to a circular of the Government dated 29th September, 2014.

Learned counsel for the petitioner would argue that the Director should have applied the circular of 2009 instead of the circular of 2014. Even in the circular of 2009 the stipulation of income being below 90% of the deceased's salary was the consideration for grant of compassionate employment. The application of the circular of 2014 by itself is not fatal.

This Court notices that the Director had considered the total surrounding circumstances and terminal benefits and pension received by the family of the deceased and had found that the same was not such to prevent the family from taking care of its basic needs.

Compassionate employment itself is an exception to the general rule of employment and recruitment. Compassionate employment admittedly aims at preventing the family of a deceased from falling into destitution, penury and starvation.

Admittedly, the petitioner is about 47 years old as on date. He was 37 years of age as on 2010. It is found by the Director in the impugned order that the deceased employee

served for about 30 years in the Gram Panchayat and had taken care of his entire family. The petitioner cannot claim that he is in starvation or in utter destitution even in the age of 37 years. The court's mind is not free from doubt that the petitioner has treated compassionate employment as a matter of right. The law of the land indicates that the same is not a matter of right.

Hence, the writ petition fails and is hereby dismissed.

There shall be no order as to costs.

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

(Rajasekhar Mantha, J.)