

02 25.6.2021

WPST 26 of 2021

Ct-16

**Antara Majumder @ Mazumder
Vs.
The State of West Bengal & Ors.**

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Mr. Ajay Debnath
...For the Petitioner

Mr. Anirban Ray
Mr. Biswabrata Basu Mallick
Mr. Sayan Ganguly
...For the State

The writ petition is directed against an order passed by the West Bengal Administrative Tribunal on 26th June, 2019 in O.A No. 338 of 2019 in connection with an application for appointment on compassionate ground. The Tribunal dismissed the said application on the ground that there is a bar under the scheme for compassionate appointment as to the consideration of a case of a minor as well as the prayer for compassionate appointment is not transferable in favour of the minor.

The matter was heard for almost three days. With the intervention of the learned Government Pleader there is a ray of hope seen in this matter. This matter has a chequered history. The bread earner of the family, namely, Apurbalal Mazumder, was working as 'Darwan cum Nighwatch man', at the time of his death, in the office of the Assistant Labour Commissioner, Purba Medinipur. He was suffering from kidney disorder. He died on 11th June, 2008 leaving behind his wife and daughter. The daughter was minor at the relevant period of time.

The wife of the deceased, namely, Smt. Bharati Mazumder, filed an application on 27th July, 2009 before the appropriate authority for

considering her case for compassionate appointment. The department did not immediately respond to the said letter. The matter was followed by a further representation where the widow pleaded for the compassionate appointment of her daughter. It was stated in the said application that the case of the daughter for compassionate appointment may be considered on her attaining majority. The appropriate authority did not respond to the said representation which induces a form of plea in the mind of widow that the case of the daughter will be considered for compassionate appointment as soon as she becomes major. Since no appointment was given to the widow on the basis of income criteria or other criteria, she was entitled to an appointment at the suitable post.

A further application was made on 20th February, 2015 after the daughter of the deceased became major and passed Higher Secondary Examination. The Labour Commissioner in terms of Memo dated 14th March, 2016 appointed an Enquiry Committee. The enquiry report dated 26th April, 2016 justifies the appointment of the daughter on compassionate ground. The relevant observations of the said Enquiry Committee are set out below:-

“During enquiry, it has come to the notice that dependents of the deceased are his wife Smt. Bharati Mazumder and one & only daughter, Smt. Antara Mazumder. They have been residing at Dakshin Mechogram, P.O- Uttar Mechogram(Dehati), P.S. Panskura, District-Purba Medinipur, Pin-721139. Smt. Bharati Mazumder is a house wife and unmarried daughter, Smt. Antara Mazumder who passed Higher Secondary

(10+2) from West Bengal Council for Higher Secondary Education in 2015. She belongs to Scheduled Cast community and Sub caste-Dhoba. After the death of Apurba Lal Mazumder the family members have been received family pension and other statutory legal dues, the detail of which are as follows-

1. Family pension Basic : 4105/- p.m w.e.f 12/6/2008 to 11/6/2015 & thereafter Rs. 3300/- p.m w.e.f. 12/6/2015.
2. Death gratuity : Rs. 1,04,436/-
3. GPF Balance : Rs. 1,62,961/-
4. Group Insurance : Rs. 11,744/- (10,000+Int. 1,744)
5. Leave Encashment : Nil
6. LIC Policies : Nil

During enquiry it has also come to the notice that the family members of the deceased have to house to live at present. They have been living in a relative house by providing some money. Moreover, after passing Higher Secondary Examination, Smt. Antara Mazumder, daughter of the deceased has been studying in First year of graduation in a college. Besides, Smt. Bharati Mazumder has been suffering from kidney disease and always taking medicine (prescription copy enclosed) due to donation of one kidney to her husband to save his life but he could not be alive.

In this context, it may be noted that they are maintaining all liabilities of the family with the said small amount of monthly income and of course, facing a lot of financial crisis in these hard days. Under such circumstances, it is our opinion that the financial condition of the family of the deceased is acute on reality and the family is in need of immediate assistance. Considering the nature and gravity of the case, Smt. Antara Mazumder, daughter of deceased, may be given an employment to maintain her family with two

ends meet satisfactorily since her mother Smt. Bharati Mazumder has given declaration the “No objection” in favour of application for employment on compassionate ground.”

In spite of such report, the case of the daughter for compassionate appointment was not considered by the authority concerned. The daughter of the deceased had no other option but to approach the learned Tribunal with a prayer for her absorption on compassionate ground. It is indeed painful to notice the sufferance of the family members of the deceased for all these years. The benefit which they are entitled to has long been denied and the principle of social justice would be a myth, in the event the case of the daughter is not considered preferably.

On this special facts, we requested the learned Government Pleader to intervene in this matter to consider the case of the daughter for absorption on compassionate ground commensurate to her qualification so that the family would survive as the right to live includes right to live with dignity.

Learned Government Pleader has fairly submitted considering the special circumstances of this case and the report of the Enquiry Committee to place the daughter of the deceased in a suitable post commensurate to her educational qualification and subject to the rules permitting on compassionate ground, within a period of two months from date.

We appreciate the stand taken by the learned Government Pleader on behalf of the State.

This writ petition is accordingly disposed of by directing the Labour Commissioner, West Bengal to give an appointment to the applicant, namely, Smt. Antara Majumder @ Mazumder on

compassionate ground.

The order of the Tribunal is accordingly set aside.

WPST 26 of 2021 is thus disposed of.

We record that Mr. Sayan Ganguly, learned counsel appearing on behalf of the State on 21.6.2021 and 22.6.2021.

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

(Hiranmay Bhattacharyya,J.) (Soumen Sen, J.)