

Court No. 24
28.07.2021
(Item No. 8)
(AB)

W.P.A. 8578 of 2021
(via video conference)

Riddhi Das
VS
The State of West Bengal & Ors.

Mr. Sayan De
Mr. Arpan Guha
Mr. Sayan Kanjilal
..... For the petitioner

Mr. Swapan Kumar Dutta
Mr. Sambuddha Dutta
..... For the respondent Nos. 4 & 5
Ms. Nandini Mitra

..... For the University
Mr. Rama Prasad Sarkar
..... for the State

The petitioner prays for compassionate appointment. The day when the employee died the college was affiliated to the West Bengal State University. The said University does not have a scheme for providing appointment on compassionate ground in the died-in-harness category.

The appointment on compassionate ground ought not to be granted in the absence of a scheme. As there is no scheme of the University, accordingly no direction can be passed upon the University for consideration of her prayer.

The petitioner tries to convince the Court relying upon an unreported order dated 10th February, 2021 passed by the Hon'ble Division Bench of this Court in MAT 375 of 2020 with IA No. CAN 1 of 2020 (Smt. Sumona Roy nee Saha Vs. the State of West Bengal & Ors.) wherein the Court was pleased to dispose of the appeal by permitting the college

authority to seek a recommendation from the College Service Commission with regard to the consideration of the candidature of the writ petitioner for any group - 'D' post of the college where petitioner's father was working upon age relaxation when the recruitment of group 'D' post will be initiated by the said college along with other candidates. The aforesaid direction has been passed in view of the peculiar circumstances of the said case.

The learned advocate representing the State respondents relies upon an unreported judgment dated 4th February, 2019 passed by the Hon'ble Division Bench of this Court in WPST 35 of 2018 (Arindam Chowdhury & Anr. Vs. the State of West Bengal & Ors.) wherein the Court held that in the absence of any provision in the statutory notifications creating any source of legal right in favour of the petitioner to claim compassionate appointment, the relief sought for cannot be granted.

It is settled law that appointment on compassionate ground cannot be claimed as a matter of right which necessarily flows from the scheme. In the absence of any scheme permitting appointment in the died-in-harness category this Court is not in a position to grant any relief to the petitioner. Moreover there is no peculiarity in the facts and circumstances of the instant case requiring following the dictum of

this Court in the matter of Smt. Sumona Roy nee Saha (supra).

Accordingly, the writ petition stands dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)