

11. 08.12.2021
Ct. No.06
Tanmoy

**M.A.T. 680 of 2021
With
IA No: C.A.N. 1 of 2021**

**Sourabh Barui & Anr.
-Versus-
The State of West Bengal & Ors.**

(Through Video Conference)

Mr. Debabrata Saha Roy, Adv.,
Mr. Falguni Bandyopadhyay, Adv.,
Mr. Manas Ghosh, Adv.,
Mr. Neil Basu, Adv.,
Mr. Subhankar Das, Adv.

...for the appellants.

Mr. Anirban Ray, Ld. G.P.,
Mr. Raja Saha, Adv.,
Mr. Biswabrata Basu Mullick

...for the State.

By consent of the parties, the appeal and the stay application are taken up together for hearing.

This appeal is preferred against an order dated April 27, 2021 whereby the learned Single Judge dismissed W.P.A. 6900 of 2021.

The writ petitioners claim to be the son and wife of an employee of the relevant Zilla Parishad who died-in-harness in the year 2008. The writ petitioner no. 1 was a minor then. The writ petitioner no.2, being the wife of the deceased employee, applied for compassionate appointment. Such application was within the prescribed time period. However, two years later, when

the son of the deceased employee was still a minor, the writ petitioner no.2 made an application for giving compassionate appointment to the son.

The matter was kept pending for a long time. Finally, the writ petitioners approached this Court only in this year. The learned Single Judge held that the petitioners have treated compassionate employment as a regular source of employment for securing the future of the petitioners. Compassionate employment is aimed at providing temporary and immediate relief to the family of the deceased employee to prevent them from falling into penury. The writ petitioners have survived from 2008 till date. On those grounds, the writ petition was dismissed.

We are in complete agreement with the observations and conclusion of the learned Single Judge. We further find that the relevant rules stand in the way of further consideration of the prayer of the writ petitioner no.1 for compassionate appointment. The writ petitioner no.1 does not qualify as per the circular of the Government dated February 3, 2009.

Although, we may have sympathy for the writ petitioners/appellants, sympathy cannot be the basis for passing an order if the same is not permissible in law. We are afraid we cannot grant any relief to the writ petitioners/appellants.

The appeal being M.A.T. 680 of 2021 and the connected application being IA No: C.A.N. 1 of 2021 are, accordingly, dismissed.

Let urgent photostat certified copies of this order, if applied for, be supplied to learned Advocates for the parties, upon compliance with all usual formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)