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23.09.2021.
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 19688 of 2014
(Via Video Conference)**

**Arati Mishra & Anr.
-versus
The State of West Bengal & Ors.**

**Mr. Anindya Bose,
Mr. Diptendu Mandal.
...For the Petitioners.**

**Mr. Supriyo Chattopadhyay,
Mrs. Ranjana Guha.
...For the State.**

The reasoned order dated 8th May, 2014 passed by the Director of Public Instruction, Government of West Bengal rejecting the prayer of the petitioners for grant of compassionate appointment on the ground that there was no policy/scheme of the State in Higher Education Department extending the benefit on compassionate appointment to the legal heirs of the deceased employees or non-teaching staff attached to the aided College. Even today, there is no such scheme with the State Government.

The father of the petitioner No.2 and the husband of the petitioner No.1 was a Lecturer in Raghunathur College who died-in-harness on 2nd March, 2003. Application was made for providing compassionate appointment. They were compelled to approach this Court praying for consideration of their application on several occasions earlier for being appointed on compassionate ground.

By an order dated 14th February, 2011 passed in W.P. No. 1492 (W) of 2011 (Arati Mishra & Anr. –vs- The State of West Bengal & Ors.) the Court was pleased to dismiss the writ application on the ground of inordinate delay. The said order was set aside by the Hon'ble Appeal Court by order dated 17th May, 2011 passed in FMA No. 574 of 2011 with ASTA 72 of 2011 wherein the Hon'ble Division Bench held that it is a continuing cause of action and every day suffering makes the cause of action alive. The respondents were directed to consider the case of the petitioners afresh.

The case of the petitioners was thereafter considered and again rejected by an order dated 12th September, 2011 on the ground that no document has been submitted by the petitioners.

The said impugned order was again challenged by the petitioners by filing W.P. No. 24030 (W) of 2012 which was disposed of by an order dated 29th January, 2014 setting aside the impugned order of rejection on the ground that the stand taken by the State respondents in their affidavit-in-opposition was not reflected in the impugned order. The respondents were directed to make a fresh adjudication of the issue uninfluenced by the stand taken by them in the affidavit-in-opposition.

The order impugned herein has been passed allegedly in compliance of the order passed by the Court on 29th January, 2014.

The prayer of the petitioners has been rejected once again by adopting a new stand that there is no scheme for extending the benefit of compassionate

appointment to the legal heirs of the deceased employees of aided College.

It appears from the documents annexed to the writ petition that time and again the respondent authorities adopted fresh grounds for rejecting the case of the petitioners.

The petitioners rely upon an unreported order dated 3rd September, 2018 passed in W.P. No. 2247 (W) of 2017 (Sri Ramesh Mal –vs- State of West Bengal & Ors.) wherein in similar circumstances the legal heir of a non-teaching staff of an aided College affiliated to the University of Burdwan was directed to consider the case for regularizing the service of the petitioner on compassionate ground.

The petitioners submit that as they stand on the same footing as that of Ramesh Mal (supra), and similar orders may be passed in this case.

The learned advocate appearing for the State respondents reiterates the stand that as there was no policy/Scheme of the State Government, the prayer of the petitioners cannot be considered.

After hearing the submissions made on behalf of the parties, it appears that, had it been the genuine case of the respondents that there was no policy/scheme, the same ought to have been intimated to the petitioners at the very first instance when their case was taken up for consideration.

The petitioners were compelled to approach the Court by filling one after another writ petitions.

Now at this stage, the respondent authorities ought not to take a fresh ground for rejecting the case of the petitioners.

The Court in Ramesh Mal (supra) recorded that documents have been placed before the Court to show that the Government has already appointed similarly circumstanced person under the died-in-harness category in the selfsame College affiliated to the Burdwan University.

In the instant case, the employee was a Lecturer of a College affiliated to the Burdwan University.

The petitioners ought not to be singled out for not allowing their prayer relying upon fresh grounds on each and every occasion. If the same is permitted then a judicial proceeding will never come to an end and will continue for days together. It is settled law that matters relating to appointment of compassionate grounds have to be dealt with expeditiously as the same relates to life and livelihood of the heir(s) of the employee who faced an untimely death. The same ought not to be handled in a slipshod manner and rejected time and again relying upon new stands.

In view of the above, the instant writ petition is disposed of by setting aside the reasoned order dated 8th May, 2014. The Director of Public Instruction is directed to take a positive decision with regard to the prayer of the petitioners for being appointed on compassionate ground as they are running from pillar to post way back from 2003 onwards.

The Director of Public Instruction shall consider the case of the petitioners without relying upon the

grounds which have already been set aside by this Court in this matter and also on the earlier occasions and pass a reasoned order in the matter at the earliest, but positively within a period of eight weeks from the date of communication of a copy of this order.

WPA 19688 of 2014 stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)