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13.07.2021.
d.p.

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

**W.P.A 24255 of 2019
(Via Video Conference)**

**Chanchal Shaikh
-versus
The State of West Bengal & Ors.**

**Mr. Biplab Guha,
Mr. Nittogopal Mukherjee.
...For the Petitioner.**

**Dr. Sutanu Kumar Patra,
Mr. Rajib Kr. Basak.
...For the University.**

Affidavit of service filed in Court today is taken on record.

The petitioner seeks compassionate appointment. The University considered the prayer of the petitioner in compliance of the direction passed by this Court on 26th June, 2019 in W.P. No. 1369 (W) of 2019.

The reasoned order passed by the Registrar (Acting) dated 20th August, 2019 is impugned in the instant writ application. By the said order, the prayer of the petitioner for being appointed on compassionate ground has been rejected on the ground that in view of the Government Order No.874-Edn(CS)/1C-63L/12 dated 28th October, 2014 all existing posts of Hostels/Mess employees in all Stated-aided Universities, Government-aided Colleges and Government Colleges shall be considered to be a “dying

cadre” and all such posts shall be treated as personal to the person incumbent. No further recruitment, either contractual or permanent, including appointment on compassionate ground shall be allowed in such posts with effect from the date of issue of this order.

According to the petitioner, the University of Calcutta has a provision for providing appointment on compassionate ground.

The petitioner has made a further representation to the University dated 30th October, 2019 and prays for a direction upon the University to consider the same.

The learned advocate appearing for the University of Calcutta submits that the University is bound by the direction passed in the Government Order and there is no scope for providing appointment to the petitioner in the Mess as the Mess of the University is being closed.

It has however been fairly submitted that the representation made by the petitioner before the Registrar (Acting) on 30th October, 2019 may be considered by the concerned authority.

Upon hearing the submissions made on behalf of the parties, it appears that the order which has been relied upon by the University to reject the prayer of the petitioner is dated 28th October, 2014. The Government Order under reference clearly mentions that no further recruitment shall be allowed in such posts with effect from the date of issue of this order.

The father of the petitioner who was a Mess employee died-in-harness on January 17, 2013 that is

prior to the issuance of the Government Order under reference. The said Government Order is prospective in operation.

The University has a provision for providing compassionate appointment to the eligible family members of a deceased employee.

In the instant case, the father of the petitioner was an employee of the Mess. If the Mess is being closed down, then the University can accommodate the petitioner, if he is otherwise eligible, for providing compassionate appointment in any other post in accordance with law.

In view of the above, the instant writ petition is disposed of by directing the Registrar, University of Calcutta to reconsider the prayer of the petitioner for providing appointment on compassionate ground, if he is otherwise eligible, in any other post or department within a period of eight weeks from the date of communication of a copy of this order.

The petitioner will not have any right to claim employment on compassionate ground in any particular post or in any particular department. The case of the petitioner shall be considered in respect of any post in any department that is available.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

WPA 24255 of 2019 stands disposed of.

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

(Amrita Sinha, J.)