

06 13.09.2021
rkd Ct.05

W.P.A. 8174 of 2020
(Through Video Conference)

Hamidur Rahaman

-vs-

The State of West Bengal & Ors.

Md. Sarwar Jahan,
Md. Ashraful Hug,
Mr. Binay Shaw

....for the petitioner.

Mr. Anirban Roy, Ld. G.P.,
Mr. Raja Saha,
Mr. Biswabrata Basu Mullick,
Mr. Rajat Dutta

....for the State.

The writ petitioner is the son of the deceased primary teacher who died in harness on 8th April, 1978. According to the writ petitioner for the first time he applied for appointment on compassionate ground on 22nd August, 1996 which is at page 18 of the writ petition. Writ petitioner is aggrieved by Memo dated 7th July, 2020 issued by the Chairman, District Primary School Council, Birbhum whereby considering the application dated 14th February, 2020 made by the writ petitioner the Chairman spurned the prayer for appointment on compassionate ground since the writ petitioner could not approach the authority for such appointment within a period of two years. The contention of the writ petitioner is that while deciding the issue of appointment on

compassionate ground the Chairman, District Primary School Council, Birbhum considered the application of the writ petitioner dated 14th February, 2020 as the first application ignoring the previous application made by the writ petitioner on 22nd August, 1996 and accordingly on consideration of such application of the writ petitioner dated 22nd August, 1996 his claim could have been considered favourably.

This Court has heard the learned advocates representing the writ petitioner as well as respondent authorities.

It is undisputed that in terms of the relevant provision for appointment on compassionate ground due to death in harness of primary teacher application needs to be made before the concerned respondent authority within a period of two years from the date of death which has not been done in the present case. Petitioner's father died on 8th April, 1978 and if the first application of the writ petitioner dated on 22nd August, 1996 is considered for appointment of the writ petitioner on compassionate ground even then the benefit of appointment on compassionate ground cannot be extended to the writ petitioner since the said application dated 22nd August, 1996

was made much after the death of the teacher in harness on 8th April, 1978.

Appointment on compassionate ground is not vested right, it is an exception to tide over the financial stringency occurs due to untimely death of the bread earner and to provide immediate financial assistance. Here in the present case since the petitioner's father died on 8th April, 1978 and the application was made for appointment on compassionate ground on 22nd August, 1996 the case cannot be decided in favour of the writ petitioner since the application was made after 18 years from the death of the writ petitioner's father. It is submitted on behalf of the writ petitioner that at the time of death of the writ petitioner's father he was minor therefore application could not be made in time. In this regard, reliance is placed on the judgment of the Division Bench of this Court, reported in 2019 Vol 1 CHN 614 (Arindam Choudhury -vs- State of West Bengal & Ors.), wherein it has already been decided that if at the time of death the dependent member of the deceased family is minor he does acquire any right for appointment on compassionate ground on becoming major.

With the above observation, the writ

petition stands dismissed.

This order will not prevent the writ petitioner being physically challenged candidate to get pension if he is otherwise eligible in accordance with law.

All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)