

12-01-2021
ct no. 13
Sl.49
pk

WPA 11283 of 2020

Jayashree Tewary

-Versus-

Union of India & Ors.

Mr. Barun Chatterjee,

Mr. Kunal Ganguly

...for the petitioner

Mr. Sanajit Kumar Ghosh

....for the respondents

The petitioner seeks compassionate employment on account of the death of her father which was rejected by the Eastern Railways. The ground for rejection is that the pension and terminal benefit paid to the deceased which was received by the family cannot render the family in destitution or penury.

Yet another fact brought to the notice of this Court by the learned counsel for the railways is that the son of the deceased is well and sufficiently employed as an Assistant Sub-Inspector of the West Bengal Police.

The other two daughters of the deceased are married.

It is now well settled that compassionate employment is not a normal process of

employment and an exception to the same. It is available only to prevent the family of a deceased employee from falling into destitution and penury. Admittedly, the deceased wife is receiving 25,000/- rupees or thereabout as pension. The petitioner is the only daughter who is without employment or support in the family as argued by the counsel for the petitioner.

This Court is of the view that the mother is quite capable of taking care of the daughter's interest.

Para 9 of the decision of the Hon'ble Supreme Court in the case of ***State Bank of India and others vs. Surya Narain Tripathi*** reported in ***(2014) 15 SCC 739*** is set out herein below.

Para.9 : In all the matters compassionate appointment it must be noticed that it is basically a way out for the family which is financially in difficulties on account of the death of the breadearner. It is not an avenue for a regular employment as such. This is in fact an exception to the provisions under Article 16 of the Constitution. That being so, if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided a comparable appointment. This being the principle which has been adopted all throughout, it is difficult for us to accept the submission made on behalf of the respondent.

In view of the aforesaid and the facts of this case, the argument of the petitioner that the Railway Rules with regard to compassionate

employment do not specify the assessment of the income of the family, and hence, the petitioner is entitled to employment as a matter of right, cannot have any legs to stand.

For the reasons stated herein above, the writ petition shall stand dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)