

WPO/485/2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

DINESH HAZRA
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE ARINDAM MUKHERJEE
Date: 7th September, 2021

(Via Video Conference)

Appearance:
Mr. Debdutta Basu, Adv.
Mr. K. P. Santra, Adv.
...for the petitioner

Ms. Deblina Chattaraj, Adv.
...for the respondent corporation (WBTC)

Ms. Chaitali Bhattacharya, Adv.
Mr. Subhendu Roychoudhury, Adv.
...for the State Respondent

The Court : The petitioner says that the petitioner's father Subhasish Hazra while working in Calcutta Tramways Company (1978) Ltd. (in short 'CTC') now known as West Bengal Transport Corporation Ltd. (in short 'WBTC') died in harness on 4th November, 2011 leaving behind the petitioner and the proforma respondent nos.7, 8 and 9 as his legal heirs and heiress. After the death of the petitioner's father, the legal heirs of the deceased employee applied for compassionate appointment to be given to the petitioner. Subsequently, on 29th December, 2011, the petitioner again applied for compassionate appointment. On 16th July, 2012, the petitioner's mother being the proforma respondent no.8 again applied by requesting the respondent employer to give a job to the petitioner on compassionate ground. These applications on being kept pending, the petitioner has come before this Court by filing the instant writ petition on 24th August, 2021.

On behalf of the WBTC it is submitted that the inordinate delay between 2011 and 2021 when the petitioner has come before this Court has disentitled the petitioner from seeking appointment on compassionate ground. It is further submitted that from the letter dated 29th December, 2011 appearing at page 20 of the writ petition the original seal is apparent evincing receipt of the application by the respondent employer. The said letter, however, below the signature of the petitioner contains a typed portion "Petitioner of W.P.O No.- 561 of 2019". A letter dated 29th December, 2011 according to the said respondent cannot have a number of a writ petition said to have been filed on 2019 and at the same time contain the original receipt seal of the respondent authorities of the year 2011. The said document is a forged one.

On behalf of the State by referring to the letter dated 29th December, 2011, it is submitted that the petitioner has approached this Court with unclean hands and only on that ground the writ petition is liable to be rejected. It is also submitted by the State respondents that there is no scope of providing any compassionate appointment to the petitioner inasmuch as there is no policy framed by the State for granting compassionate appointment to a deceased employee of CTC or WBTC. CTC/WBTC has also not come up with any scheme for compassionate appointment as directed by the State for its approval and as such there is no prevailing scheme for compassionate appointment in WBTC.

Compassionate appointment is not a matter of right, it is depended on the policy if any framed by the employer for granting compassionate appointment. In the instant case, the fact remains that an application was made for compassionate appointment followed by several reminders to that effect but none of the application and/or representation has been disposed of by the respondent no.4 being the person authorised to do so according to the petitioner. Assuming without admitting that the letter/application dated 29th December, 2011 cannot be

acted upon then also the application dated 16th July, 2012 is there which still remains undecided.

In this facts and circumstances, I direct the respondent no.4 to consider the petitioner's prayer for compassionate appointment in terms of the application of the petitioner's mother (proforma respondent No.8) dated 16th July, 2012 and dispose of the same by reasoned order taking into consideration the scheme, if any, prevailing in CTC now known as WBTC at the time of death of the petitioner's father or subsequent thereto. The petitioner and the proforma respondent no.8 be given personal hearing following the present Covid-19 norms. The application and/or representation as aforesaid shall be disposed of by the respondent no.4 within six weeks from the date of communication of the order by a reasoned order.

The parties shall act on a server copy of this order without insisting upon production of the certified copy thereof.

Nothing further remains to be adjudicated in the writ petition and the same is, accordingly, disposed of.

Since I have not called for affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

(ARINDAM MUKHERJEE, J.)