

**17.03.
2022**

Ct. No. 04

Ab

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.**

WP.ST 6 of 2022

Brajamohan Maity

Vs.

The State of West Bengal and others.

**Mr. Tanmay Mukherjee,
Mr. Kamal Mishra,
Mr. Souvik Das,
Mr. Rudranil Das.**

... for the petitioner.

**Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly.**

... for the State.

Raising a grievance of non-disposal of an application seeking compassionate appointment on the death of the father, the tribunal application being OA 500 of 2020 was filed by the petitioner, which has been disposed of by the impugned order in such a manner, which virtually rejected the said application pending before the competent authority.

The tribunal has exceeded its jurisdiction in usurping the power of the administrative authority and deciding the application on merit when the authority has not taken any final decision thereupon. Such course adopted by the tribunal cannot be accepted. The tribunal has to consider whether the decision of the administrative authority is in tune with the Rules, norms as well as the statutory provisions and cannot take up the responsibility of the administrative department and decide the same in the guise of the exercise of judicial powers entrusted upon it.

The application was pending for a pretty long time and subsequently in the year 2016 it transpired that it was pending before the wrong department and, in fact, by a letter dated 31st August 2016 the same was directed to be transmitted to the Principal Secretary, P&AR Department, WBCS Cell, Government of West Bengal.

Our attention is drawn to a reply dated 29th January 2018 of the District Magistrate, Paschim Medinipur wherein he forwarded all the requisite papers as sought for by the competent department so that the application may be taken up and final order is passed. The grievance of the petitioner in this regard was that despite such course of action having adopted, the application for compassionate appointment is pending keeping the fate in lurch.

As indicated above, the Tribunal has proceeded with a broader narration of the concept and object behind the incorporation of the provisions of compassionate appointment and proceeded to dismiss the said application, as considerable period has elapsed in the mean time. If the authority has kept the application pending without any justifiable reasons, such conclusion should not have been surreptitiously embarked upon, as there are many other factors to be taken into account in this regard.

Solely on the ground that the Tribunal has taken up the task of the administrative authority and decided the application of the petitioner for compassionate appointment when, in fact, such application is still pending before the administrative authority, we set aside the impugned order.

The Principal Secretary, P&AR Department, WBCS Cell, Government of West Bengal is directed to take up the said application and dispose of the same within four

weeks from the date of communication of this order by recording proper reasons and in accordance with law.

The writ petition is thus disposed of.

There shall however be no order as to costs.

(Harish Tandon, J.)

(Rabindranath Samanta, J.)