

**Kartick Manna
Vs.
The State of West Bengal & Ors.**

**Mr. Bhagbat Chaudhury,
Mr. Subrata Mukherjee.
... for the petitioner.
Mr. Tapan Kumar Mukherjee,
Ms. Saheli Mukherjee.
... for the State.**

The instant application has been taken out assailing the order dated 24th May, 2019 passed by the West Bengal Administrative Tribunal in OA 552 of 2017, whereby and whereunder the plea of compassionate appointment on the death of the father of the petitioner was turned down.

Admittedly the father was engaged by the Superintending Engineer, State Highway, Circle No. VI as Work Guard on and from 3rd February, 1995 and rendered services till his death, i.e. 22nd June, 2014. After the death of the father an application was made by the petitioner seeking appointment on compassionate ground.

The authority rejected the said application on 9th March, 2017 holding that the father of the petitioner was not a Government servant nor a regular employee but was a worked charged employee and in view of the notification issued by the Government of West Bengal the scheme for compassionate appointment is not extendable to such employee.

The Tribunal relied upon a judgement of the Supreme Court rendered in case of *State of Manipur vs. Thingujam Brojen Meetei* reported in (1996) 9 SCC 29, wherein the Apex Court held that the dependant of a work charged employee is not entitled for compassionate appointment in absence of any

specific scheme having floated by the Government in this regard.

Recently an identical question came up for consideration before the Supreme Court in case of *State of Madhya Pradesh & Ors. vs. Amit Shrivastava* reported in (2020) 10 SCC 496, wherein a driver in Tribal Welfare Department died while in service and an application was taken out by his son seeking compassionate appointment. It was held that the salary of the said driver was paid from the work-charged/contingent fund and there was no provision nor any scheme so framed for compassionate appointment.

In the backdrop of the above, the Apex Court held that the moment the deceased employee was a work charged employee and even if he rendered his services for more than 15 years, he does not acquire the status of a permanent employee. It is further held that in absence of any scheme for compassionate appointment on the demise of such work charged employee, who is not a regular or permanent Government employee, the son of the said deceased cannot claim for compassionate appointment on the untimely death of his father.

It is no doubt true that the concept of compassionate appointment somewhat offends Article 14 of the Constitution of India but the scheme and regulations are framed in order to provide sustenance to the family of the deceased employee who suffered penury because of the untimely death of the bread earner. Unless the scheme is in place, it does not bestow any right on the dependant of the deceased employee to seek compassionate appointment. There is no scheme, which is framed by the Department, concerning the compassionate appointment of the dependant of the deceased work

charged employee and, therefore, we do not find that there is any illegality or infirmity on the decision of the authority as well as the Tribunal in rejecting the application.

The writ petition is thus dismissed.

There will be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)