

Court No. 24
25.02.2022
(Item No. 50)
(AB)

W.P.A. 2504 of 2022
(via video conference)

Shouvik Patra
VS
The State of West Bengal & Ors.

Mr. Biswarup Biswas
Mr. Abhijit Basu
..... for the petitioner

Leave is granted to the learned advocate on record of the petitioner to implead the District Inspector of Schools (Primary Education), Purba Medinipur as party respondent.

The formality of service of copy of the writ petition upon the said respondent stands dispensed with as the copy of the writ petition has already been served in the office of the learned Government Pleader representing all the State respondents.

The petitioner prays for compassionate appointment. His father was a Primary School Teacher who died in harness on 27th December, 2018. The petitioner made an application for compassionate appointment on 22nd December, 2020. The prayer of the petitioner stood rejected by the order of the District Inspector of Schools (Secondary Education), Purba Medinipur on 29th November, 2021. The petitioner being aggrieved by the same filed the present writ petition.

The petitioner assails the impugned order of rejection on two grounds. First, the jurisdiction of the authority to pass such an order and second, the method in

which the family income of the petitioner has been assessed.

It has been submitted that the father of the petitioner was a Primary School Teacher and according to the provisions of the West Bengal Primary School Teacher Recruitment Rules, 2001 as amended up to date the District Inspect of Schools (Primary Education) is the competent authority to take a decision with regard to consideration of the application of the petitioner on compassionate ground.

Rule 21 of the West Bengal School Service Commission (Selection of Persons for Appointment to the post of Non-Teaching Staff) Rules, 2009 mentions that the School Service Commission, may subject to the other provisions of this Rule recommend the name of a member of the family of the Primary Teacher to the post of Clerk or Group D staff on compassionate ground, when the name of the family member is forwarded from the District Inspect of Schools (Primary Education) concerned observing the formalities specified in Rule 20.

In the present case, the impugned order has been passed by the District Primary School Council (Secondary Education) who did not have any role at the time of consideration of the application made by the petitioner.

With regard to the computation of family income it has been submitted that according to Schedule V of Rules 20 and 21 of the aforesaid Rules relating to the procedure, manner of application and preparation of panel for

appointment on compassionate ground “Financial hardship” in relation to income of a deceased teacher consisting of up to five members in his family, shall mean an amount of income less than the initial gross salary of Group ‘D’ staff of the State Government at the material point of time. For computation of income of such family, an income of an amount earned by each family member from any other sources than Provident Fund, Gratuity and 40% of Family Pension of the first seven years or upon the attainment of 67 years of age of the deceased teacher had he been alive, whichever is earlier at the material point of time shall be taken into account.

It has been submitted that the family income that has been computed was not in accordance with the aforesaid provision.

None appears on behalf of the State respondents despite service.

Prima facie, it appears that the District Inspector of Schools (Secondary Education) ought not to have decided the issue since the service relates to a Primary School Teacher. The family income also apparently appears not to have been computed in the manner as provided in the Rules.

In view of the above, the impugned order of rejection dated 29th November, 2021 is set aside. The matter is remanded back to the District Inspector of Schools (Primary Education), Purba Medinipur to consider the matter afresh, strictly in accordance with the relevant

Rules at the earliest, but positively within a period of ten weeks from the date of communication of a copy of this order.

The said respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The writ petition stands disposed of.

Urgent certified photo copy of this judgment, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)