

15.06.2022
Item No. 41
Ct. No. 40
AKG

WPA 4730 of 2022

Binapani Murmu
Versus
The State of West Bengal & Ors.

Mr. R. N. Mahato,
Mr. Dilip Kumar Sadhu
...For the Petitioner
Mr. Asish Kumar Guha,
Mr. Naren Ghosh Dastidar
...For the State

It appears that the husband of the petitioner was an employee of Mahishadal Raj College, died on November 4, 2018, and thereafter the petitioner made an application for compassionate appointment on 27.01.2021 before the Principal of the said College.

The petitioner approached this Court by filing a writ petition being WPA 14149 of 2021, praying for her compassionate appointment on the death of her husband.

The said writ petition was disposed of by an order dated September 15, 2021, passed by a Co-ordinate Bench of this Court giving a direction upon the respondents to pass a reasoned order and communicate the same to the petitioner immediately thereafter. In compliance with the said order dated September 15, 2021, the case of compassionate appointment of the petitioner was taken up by the Principal of the said

College and by the order impugned dated November 9, 2021, the claim of the petitioner was rejected. Two grounds were taken in the order impugned. Firstly, it has been stated that in absence of any scheme for compassionate appointment, the petitioner cannot be considered. Secondly, the Principal of the said College was of the view that since the application was made belatedly, after two years and two months, the financial need of the family was conspicuously absent.

I am of the view that the order impugned cannot be sustained.

Vidyasagar University First Statutes, 1983 provides as follows :-

“Statute 163

a) Whenever a permanent vacancy occurs in any of the posts referred to in sub-clause (i) of clause (a) of Statute 160, such vacancy shall in the first instance be filled up by promotion from amongst the employees holding any of the posts referred to in sub-clause (ii) of clause (a) of Statute 160. In the matter of such promotion, efficiency, seniority including academic qualifications, character rolls and attendance shall have to be taken into consideration. In case no suitable candidate for such promotion is available, such permanent vacancy shall be filled up by direct recruitment in accordance with the procedure laid down for the purpose;

Provided that the provisions relating to recruitment of non-teaching employees of affiliated colleges as laid down in the foregoing Statutes shall not apply in cases where, on compassionate ground, a wife, son, daughter, or dependant of any employee – both teaching and non-teaching-dying in harness is to be offered a job consistent with his/her qualifications. He/she shall have precedence

over others in the matter of appointment or placement, as the case may be;

Provided further that the provision mentioned above shall also be applied in case of a college employee who is disabled permanently or otherwise incapacitated rendering him unfit to continue in service, provided this fact of disablement is certified by a medical officer authorised by the Director of Health Services.

b) Wherever a permanent vacancy occurs in any of the posts referred to in sub-Clause (ii) of clause (a) of Statute, 160, in the matter of filling up of such vacancy, the procedure as laid down in these Statutes for direct recruitment shall be followed.

c) In the case of filling up of vacancies in the posts referred to in sub-clause (ii) of clause (a) of Statute 160. Efficient and experienced members of the lower subordinate staff having the requisite qualifications shall get preference over others.”

Since there is a provision under the relevant Statute for compassionate appointment, right of the petitioner to be appointed on compassionate appointment cannot be discarded on the ground that there is no scheme for compassionate appointment.

I am of the view that, simply because the application was made after two years and two months from the date of the death of the deceased employee, the application for compassionate appointment was liable to be rejected. There might be just ground for making application belatedly. The reason for delay was to be examined by the Principal of the said College. Without affording any opportunity to the petitioner to explain the delay in

making application, the claim of the petitioner could not be discarded on the plea that such delay in making the application proved that the petitioner did not require any financial help.

It has been submitted by Mr. R. N. Mahato, learned advocate appearing for the petitioner that till date, pension and other dues on account of death of her husband have not been released.

In that view of the matter, the Principal of the College ought not to have arrived at the finding that there was no financial need of the family without embarking upon an enquiry as to the financial condition of the family.

In that view of the matter, impugned order dated September 9, 2021, communicated to the petitioner by the letter dated November 9, 2021, by the Principal, Mahishadal Raj College, Purba Medinipur is set aside.

I direct the Director of Public Instruction, Government of West Bengal to consider the case of the petitioner for compassionate appointment after hearing her. The decision shall be communicated to the petitioner within two weeks thereafter.

Accordingly, W.P.A. 4730 of 2022 is disposed of.

Let urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Kausik Chanda, J.)