

Ct. 05
Item No.13
07.04.2022
(suvendu)

WPA 5262 of 2022

Bebi Pal
Vs.
The State of West Bengal & Ors.

Mr. Soumyen Datta
Mr. Debsoumya Basak
.....for the petitioner
Ms. Chama Mookherji
Ms. P. Pal
.....for the State
Mr. Amitava Chaudhuri
Mr. N. Roy
Ms. Monoleena Chaudhuri
.....for the respondent nos. 4 and 5

The petitioner has challenged a recent order passed by the Director of Public Instruction on 7th December, 2021 rejecting the petitioner's plea for compassionate appointment. The scope of decision of the DPI was pursuant to an order dated 23rd July 2021 passed by a coordinate Bench by which an earlier order of the DPI was set aside and the DPI was directed to reconsider the prayer of the petitioner with respect to the prevalent Rules at the time of death of the petitioner's husband and the financial condition of the petitioner.

By the impugned order, the prayer of the petitioner has once again been rejected on the ground that the petitioner has been receiving

family pension of Rs. 9300/- per month and the petitioner is in possession of 0.4 decimals of land on which she has a dwelling house. The DPI accordingly came to the conclusion that the financial condition of the petitioner did not merit compassionate appointment. The DPI also relied on a Notification dated 3rd December, 2013 under which the DPI found that the petitioner was not entitled to compassionate appointment.

Learned counsel appearing for the petitioner relies on a computation of the petitioner's family income which is Rs. 14,216/- (without LIC) and Rs. 17,365/- (with LIC).

Learned counsel appearing for the State submits that the petitioner had sufficient finances at her disposal at the time of her husband's death which could not merit an appointment on compassionate basis.

Learned counsel appearing for the Universities adopts the submissions made on behalf of the State.

The only point which is required to be decided in this writ petition is whether the petitioner's financial condition warranted appointment on a compassionate basis.

The figures mentioned in the impugned order cannot form any finding, on a conclusive

basis, that the said figure was sufficient for the petitioner to lead a life of comfort or at least a standard commensurating to that when the petitioner's husband was alive. The fact that the petitioner has a dwelling house by itself would not bring the petitioner within the ambit of the Notification dated 3rd December, 2013 since Clause 6 of the Notification – Eligibility – lists two grounds both of which apply to the petitioner.

The computation made by counsel appearing for the petitioner shows that the monthly income of the family falls below ninety percent of the gross monthly salary of the employee (the petitioner's husband) and also that the monthly income of the family falls below the minimum salary of a Group D employee. The petitioner's husband served as a Group D employee in the concerned College.

The impugned order does not disclose the reason as to why the petitioner would not be entitled to a compassionate appointment. The petitioner having a surviving son of 22 years does not translate to income in-hand which would in turn disentitle the petitioner to the nature of appointment sought for.

In view of the above reasons, WPA 5262 of 2022 is allowed.

The impugned order dated 7th December, 2021 is set aside.

The DPI is directed to take a fresh decision in the matter particularly with regard to whether the Notification dated 3rd December, 2013 would apply to the petitioner and if yes in what measure. The DPI shall take the decision within a period of four weeks from the date of communication of this order.

The writ petition is disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)