

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5479 of 2022

Shib Narayan Sardar
Vs.
The West Bengal State Electricity
Distribution Company Limited & Ors.

Mr. Pratip Kumar Chatterjee
... For the petitioner

Mr. Debjit Mukherjee
... For WBSEDCL

The petitioner's father was an employee of West Bengal State Electricity Distribution Company Limited (in short "WBSEDCL"). While serving WBSEDCL as an Assistant Charge-Man, the petitioner's father died on 5th November, 2015. The petitioner made an application on 20th April, 2016 to WBSEDCL for granting him employment on compassionate ground. The application has been processed by WBSEDCL and, in fact, at their request, the petitioner had undergone medical tests, the reports whereof have been submitted to WBSEDCL. As no appointment was given to the petitioner even after lapse of several months from the submission of the medical examination reports, the petitioner has approached this Court, inter alia, seeking a mandatory order to provide compassionate appointment to the petitioner.

It is now well settled that compassionate appointment is not a matter of right. It is an exception

carved out of Article 14 of the Constitution of India to provide financial support to a family on having lost its sole bread earner. The compassionate appointment, therefor, is required to be processed as per the prevailing scheme of the employer concerned at the time of death of the employee. This is also required to be processed as expeditiously as possible, otherwise the whole object of providing solace to the bereaved family gets frustrated.

In the instant case, there was and still is a scheme for compassionate appointment prevailing in the employer concerned. The respondents, therefor, are required to process the petitioner's application in the light of the scheme which was prevailing at the time of death of the petitioner's father.

The respondents have filed a report wherein it is stated that under the scheme for being considered, a person has to be class VIII pass. The certificate submitted by the petitioner is in doubt. The respondents have written to the Headmaster of the School which issued the certificate. The Headmaster of Kolan Pir Burhan Vidyapith (High School), P.O.- Kolan Radhakantapur, Murshidabad, by a letter dated 3rd January, 2022, has informed WBSEDCL that the Transfer Certificate, being T.C. No.18, may have been issued by this School on 18th July, 1998.

The benefit of doubt as to the issuance of the certificate in the absence of specific denial has to be given to the petitioner.

In the aforesaid facts and circumstances, the respondent no.2 should immediately consider the petitioner's application dated 20th April, 2016 and grant compassionate appointment to the petitioner if he fulfills other eligibility criteria required under the law.

The compassionate appointment to the petitioner, if he is found fit, shall be given by 31st July, 2022 keeping in mind that about seven years have elapsed from the death of the concerned employee.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)