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13-06-2022
AKG
Ct. 40

W.P.A. 7197 of 2021

**Raju Kumar
Vs.
The State of West Bengal & Ors.**

Mr. Uday Sankar Chatterjee,
Mr. Suman Sankar Chatterjee,
Mr. Sayan Chattopadhyay,
Mr. Santanu Maji,
Ms. Snigdha Saha

...For the Petitioner

Mr. Himadri Sekhar Chakraborty,
Ms. Debdooti Dutta

...For the State

The father of the petitioner died in harness on December 8, 2017, while serving as Group -D staff in Bangabasi Evening College under the University of Calcutta. After his death, an application for compassionate appointment of the petitioner was forwarded by the College to the Director of Public Instruction on January 11, 2020.

It is the case of the petitioner that, thereafter, no decision has been taken by the Director of Public Instruction, Education Directorate till date.

The State opposes the claim of the petitioner by filing an affidavit in opposition. The State submits that there is no scheme for compassionate appointment for the employees of the relevant College.

The College in question is affiliated to the Calcutta University. The Calcutta University First Statutes, 1979, provides for compassionate appointment of the employees affiliated to the Calcutta University in the following

manner :-

“6.(a) Whenever a permanent vacancy occurs in any of the posts referred to in Sub-Clause (i) of Clause (a) of Statute 3, such vacancy shall in the first instance be filled up by promotion up by promotion from amongst the employees holding any of the posts referred to in Sub-Clause (ii) of Clause (a) of Statute 3. 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 provision 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.” (sic)

Therefore, I am of the opinion that the State is not correct in contending that the case of the petitioner cannot be considered. Since there is a provision for compassionate appointment, the case of the petitioner ought to have been considered by the Director of Public Instruction.

In that view of the matter, this writ petition is disposed of with a direction upon the Director of Public Instruction, Education Directorate, Govt. of West Bengal to take a decision with regard to the compassionate appointment of the petitioner on the basis of the application forwarded to him by the Principal, Bangabasi Evening College by the letter dated January 11, 2020. The decision should be made within a period of one month from the date of communication of this order. The Director of Public Instruction will give an opportunity of hearing to the petitioner before taking the decision and communicate the same within two weeks from the date of the decision.

Accordingly, the writ petition being WPA 7197 of 2021 is disposed of.

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

(Kausik Chanda, J.)