

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8482 of 2022

Monirul Abedin
Vs.
Union of India & Ors.

Mr. K.B.S. Mahapatra
Ms. Rama Haldar
... For the petitioner

Mr. Koushik Dey
... For Union of India

The petitioner's father while working as a Sub-Inspector in the Central Industrial Security Force (in short "CISF") died-in-harness on 8th July, 2012. The petitioner's application for appointment on compassionate ground was considered and rejected by the respondents on 11th August, 2014. Challenging such rejection, the petitioner filed a writ petition, being WP 31381 (W) of 2014. The said writ petition was dismissed by an order dated 19th March, 2015. The petitioner preferred an appeal, being FMA 2079 of 2015, against the said order. The appeal was disposed of by an order dated 8th September, 2016. The operative portion of the order of the Division Bench is as follows:-

"In these circumstances, in our opinion, the appeal can be conveniently disposed of by directing the Respondents to consider the candidature of the Appellant in accordance with law for being appointed on compassionate grounds, by taking into account the modification issued by the DoPT on

25th February, 2015 in respect of the earlier Circular of 30th May, 2013. The observations of the learned Single Judge will not adversely affect the consideration of the Appellant's candidature."

The petitioner's case was thereafter considered by the respondent employer but the petitioner failed to run five kilometres and, as such, his candidature to the post of Constable (General Duty) was rejected on 13th November, 2017. The writ petition has been filed on 6th May, 2022 after lapse of more than five years from the date of such rejection.

The whole basis of compassionate appointment is to provide solace to the family having suffered financial crisis on the death of its sole bread-earner. Ten years have passed in between the death of the employee and filing of the instant writ petition. The rejection of the petitioner's claim took place for the first time on 11th August, 2014. The writ petition challenging such rejection was dismissed by the Single Bench. The Appeal Court, as stated hereinabove, permitted the petitioner's case to be considered. The petitioner's case was considered but the petitioner failed to qualify in the physical eligibility test. It will be an abuse of process of law to permit a person to approach the Court on successive occasion with the same prayer till the desired goal is achieved. The petitioner's case, according to me, falls under such a category apart from there being long delay. The petitioner is also aged about 43 years at the present and has, therefor, surpassed

the maximum age limit for the post of Constable under the General Category. The age and physical fitness are relevant for the job in CRPF.

The writ petition, therefor, is dismissed without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)