

3.
21-01-2022
debajyoti
(Ct. no.06)

MAT 704 of 2021
with
IA NO:CAN/1/2021

Moumita Chakraborty
Vs.
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
... For the Appellant.
Mr. Arjun Roy Mukherjee
... For the State.

Learned advocate for the appellant undertakes to cure the defect, as pointed out by the Additional Stamp Reporter on August 04, 2021.

The father of the petitioner died-in-harness on June 26, 2011. Upon his death, in 2011 itself, an application for compassionate appointment was made before the respondents seeking employment of the minor daughter of the deceased employee who is the writ petitioner/appellant herein. The daughter was 16 years old at that point of time. It appears that the petitioner became a major in the year 2013. In 2015, she renewed her request for appointment on compassionate ground. That application was processed by the relevant Panchayat department.

The Special Secretary, Government of West Bengal, however, by an order dated June 22, 2016, declined to accord appointment to the petitioner on compassionate ground by referring to a Notification No.4097/PN/O/III/2A-63/14 dated September 29, 2014 read with Labour Department Notification No.251-Emp dated December 03, 2013 on the ground

that the applicant was a minor at the material point of time.

Challenging the said order of rejection, the writ petitioner approached the learned Single Judge. The learned Single Judge held that compassionate appointment is not a regular mode of appointment which is essentially aimed at mitigating the sudden crisis faced by the family of a deceased employee, who died-in-harness. Learned Single Judge held that there was substantial delay on the part of the petitioner which defeated the cause.

Before us, Mr. Anjan Bhattacharya, learned advocate, appearing for the appellant, submits that the State Government was not right in rejecting the claim for compassionate appointment of the petitioner relying upon the aforesaid two Government Orders. Mr. Bhattacharya submits that since the said two Government Orders came into operation after the death of the father of the petitioner, the said two Government Orders are not applicable to the appellant's case.

We are unable to accept the submission advanced by Mr. Bhattacharya. In our opinion, the aforesaid two Government Orders will govern the cases where the right of compassionate appointment accrued when the said two Government Orders came into force. In the present case, the deceased employee died in the year 2011 and at that material time, the appellant was admittedly a minor. In that view of the matter, no right of compassionate appointment was vested under the died-in-harness category in the appellant and as such, the submission of Mr. Bhattacharya that the case of the appellant does not

fall within the purview of the aforesaid two Government Orders, cannot be accepted.

We find no infirmity in the order under appeal.

There is no merit in the appeal. MAT 704 of 2021 and CAN 1 of 2021 are dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)