

05.08.2022

WPST 59 of 2022

Court : 04  
Item : 64  
Matter : WPST  
Status : DO  
Transcriber: nandy

Manoj Bag  
Vs.  
The State of West Bengal & Ors.

**Mr. Partha Sarathi Bhattacharya, Senior Advocate**  
**Mr. Sukumar Ghosh, Advocate**  
**Mr. Moumita Ghosh, Advocate**

.....for the Petitioner

**Mr. Tapan Kumar Mukherjee, Advocate**  
**Ms. Debdooti Dutta, Advocate**  
**Mr. Pranab Halder, Advocate**  
**Mr. Rajat Dutta, Advocate**

.....for the State

The order impugned would reflect the thought process of the Member of the Tribunal in disposing of the tribunal application without returning any findings whether the reasons assigned by the authority is in consonance with the spirit of the law.

Unfortunately, the father of the writ-petitioner died while in service having met with the road accident and an application for compassionate appointment was taken out by the writ-petitioner. Enquiry was made by the Officer-in-charge, Kolaghat Police Station about the financial condition of the family and a favourable report was submitted that the family has the only source of sustenance being the pension given to the widow and also have some meagre immoveable assets.

The Department of Home and Hill Affairs, rejected the said application on the ground that the writ-petitioner could not fulfil the condition laid down in the notification applicable for consideration of an appointment on compassionate ground under the exempted category. Curiously enough, the compassionate appointment is

never intended to bring within a particular reserved category but an exception to the normal Rule of Recruitment in order to tide over the family suffering financial jerk because of untimely death of the bread-earner. It is a welfare and benevolent scheme and, therefore, a pragmatic approach is required, in a more objective manner than being subjective.

To our utter surprise, the Tribunal has recorded that the writ-petitioner was allowed to sit in the written test and the interview but the result has not been intimated and/or disclosed as yet. The compassionate appointments are made on a scheme being framed by the nodal employer and the scheme does not provide any such mechanism like a normal recruitment. The employer cannot adopt any course *de hors* the same. The important question also arises on the applicability of the schemes prevalent at the time of the death or on the date of consideration and, therefore, the authority ought to have returned its finding thereupon before it ventured to take recourse to any of them.

Ultimately the Tribunal has found that the reasons assigned by the authority while rejecting the application lacks clarity and, therefore, the said order cannot be sustained.

In view of the findings made hereinabove, the points which are required to be considered on an application for appointment on compassionate ground have not been adhered to by the authority nor there is a proper reason having assigned while rejecting the claim.

We thus do not find any infirmity in the impugned order. However, the respondent no. 2 is directed to comply with the directions passed by the Tribunal within four weeks from the date of communication of this order and shall not unreasonably delay such decision unless founded upon unavoidable and unforeseen circumstances.

The writ-petition being **WPST 59 of 2022** is accordingly **disposed of**. No order as to costs.

**(Harish Tandon, J.)**

**(Shampa Dutt (Paul), J.)**