

7.9.2022
Sl.No.25
sn

WPA 13015 of 2021

Mallika Das
Vs.
The State of West Bengal & Ors.

Mr. Ashis Kumar Chowdhury
Ms. Sabnam Sultana
Mr. Rajib Ghosh
Mr. Rohan Paul
..for the petitioner
Mr. Pinaki Dhole
Ms. Kakali Samajpaty
..for the State

The petitioner claims to be the daughter of a deceased employee of Sijgram Zilla Parishad, who died in harness. After the death of her father, the petitioner's brother applied for appointment under the died-in-harness category. A three men's committee had held a meeting on May 21, 2010 at 2-30 p.m. with regard to the application of the petitioner's brother. It is submitted that the brother of the petitioner expired on July 15, 2010. Thereafter, the petitioner submitted a handwritten letter before the Additional Executive Officer, Murshidabad Zilla Parishad on March 19, 2020, seeking appointment on compassionate ground upon the death of her brother. The father died in harness on December 2, 2001.

The petitioner alleges that the authorities have not taken any steps to appoint the petitioner and prays for necessary direction in this regard.

The petitioner has not applied in the prescribed form. The father of the petitioner died in 2001. Thereafter, the brother applied with a 'No Objection' from the heirs, but unfortunately the brother expired before any appointment could be given. No steps were taken by any of the family members, least of all the petitioner in the interim period and suddenly in March, 2020, the petitioner wrote a letter to the Additional Executive Officer, Murshidabad Zilla Parishad seeking appointment on compassionate ground.

Compassionate appointment is not a matter of right. Such appointment is given to the dependant of a deceased employee, so, that the family could survive, in spite of the sudden financial crisis the family would face. Basically, compassionate appointment is given to a dependant in order to tide over the immediate crisis, on account of the death of the sole bread earner.

The Hon'ble Apex Court in the matter of ***Santosh Kumar Dubey v. State of U.P.***, reported in ***(2009) 6 SCC 481*** held as follows:-

"11. The very concept of giving a compassionate appointment is to tide over the financial difficulties that are faced by the family of the deceased due to the death of the earning member of the family. There is immediate loss of earning for which the family suffers financial hardship. The benefit is given so that the family can tide over such financial constraints.

12. The request for appointment on compassionate grounds should be reasonable

and proximate to the time of the death of the bread earner of the family, inasmuch as the very purpose of giving such benefit is to make financial help available to the family to overcome sudden economic crisis occurring in the family of the deceased who has died in harness. But this, however, cannot be another source of recruitment. This also cannot be treated as a bonanza and also as a right to get an appointment in government service.

13. In the present case, the father of the appellant became untraceable in the year 1981 and for about 18 years, the family could survive and successfully faced and overcame the financial difficulties that they faced on missing of the earning member. That being the position, in our considered opinion, this is not a fit case for exercise of our jurisdiction. This is also not a case where any direction could be issued for giving the appellant a compassionate appointment as the prevalent rules governing the subject do not permit us for issuing any such directions. The appeal, therefore, has no merit and is dismissed.”

The facts of the case reveal, that the family was not faced with immediate crisis as the petitioner has been able to sustain herself, for almost 20 years since the death of her father. There is also no reference in the writ petition, as to whether there are other dependents who were being looked after by the petitioner.

Under such circumstances, such belated application which is not in the prescribed form, cannot be entertained.

This writ petition is disposed of without any orders.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are to act on the basis of the server
copy of this order.

(Shampa Sarkar, J.)