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06-12-2022
AKG
Ct. 238

WPA 11779 of 2008
Sri Manik Chandra Das
Vs.
The State of West Bengal & Ors.

Mr. Sudipto Panda,
Mr. Falguni Bandyopadhyay,
Ms. Riya Ballavi

...for the Petitioner

The petitioner challenges a communication dated June 21, 2008 issued by the Principal, Teachers' Training College, Purulia.

By the said order, it was communicated to the mother of the petitioner that her prayer for compassionate appointment for the petitioner was not considered favourably by the Director of Public Instruction.

It was communicated that the case of the petitioner could not be considered in view of the government circular being No. 97/1 (100)-Emp. dated 6th June, 2005.

Mr. Panda, learned advocate appearing for the petitioner submits that the order of the Director of Public Instruction cannot be sustained since the said government order has been subsequently modified by another government order being no. 30-Emp. dated 2nd April, 2008.

Clause 2 of the said circular dated April 2, 2008,

inter alia, provides that one of the conditions for providing compassionate appointment is that an employee had at the time of death or premature retirement at least two years of service left to reach the normal age of superannuation.

In the present case, petitioner died at the age of 58 years, 4 months. Therefore, it cannot be said that the petitioner is covered by the said circular dated 2nd April, 2008.

Mr. Panda places reliance upon a judgment in *(2012) 3 WBLR (Cal) 254 (Sahauddin Shaikh Vs. The State of West Bengal & Ors.)* to argue that even if the employee dies before one day of superannuation, there is no bar to consider the case for compassionate appointment.

The case of the petitioner cannot be considered for more than one reason. First of all, the relevant Statute of Burdwan University, to which the college was affiliated to at the relevant point of time, has no scheme or statutory provision for compassionate appointment.

The circulars as mentioned above are applicable to the government employees only. In absence of statutory scheme or provision, no compassionate appointment can be given.

Secondly, compassionate appointment is provided only to overcome the sudden financial crisis faced by the family due to sudden demise of the employee.

If the employee dies at the fag end of his service,

it cannot be said that the family has faced a sudden financial crisis since there will be no effective impact on the retiral dues of the employee.

Accordingly, **WPA 11179 of 2008** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)