

16.11.22

WPA 17189 of 2021

Bitaan Sinha
vs.
The State of West Bengal & Ors.

Mr. Prosenjit Mukherjee
Mr. Arghya Kamal Das
....for the petitioner

Mr. Swapan Kumar Dutta
Mr. Tapas Kumar Mandal
...for the State

The petitioner seeks compassionate appointment. His father, who died-in-harness, was an employ of a college namely, Rampurhat College in Birbhum. The college is affiliated to Burdwan University and it is not disputed by the parties that there is no scheme or statutory provision which provides for compassionate appointment for a teaching or non-teaching staff of Burdwan University or the colleges affiliated to it.

In absence of such statute or scheme the petitioner cannot have any right to be appointment on compassionate ground. Compassionate appointment is not automatic or a matter of right.

It has been forcibly argued by Mr. Mukherjee, learned advocate appearing for the petitioner that the petitioner is entitled to compassionate appointment in view of the Government circular dated 3rd December, 2013. Mr. Mukherjee further submits that applying the said circular

compassionate appointment has been provided to some family members of deceased employees under Burdwan University. He also relies upon some orders passed by the Director of Public Instruction whereby compassionate appointment has been provided following the circular dated December 3, 2013.

It cannot be disputed that Director of Public Instruction, in some cases, has decided to give compassionate appointment to the family members of the deceased employee of the Burdwan University or the colleges affiliated to it. At the same time it is equally true that in many cases the Director of Public Instruction declined to apply the said circular to the employees of a University or a college receiving grant-in-aid.

Such inconsistent stand of the Director of Public Instruction, therefore, cannot create any precedence.

The right of the petitioner needs to be examined only in the light of the said circular dated December 3, 2013 as relied upon by Mr. Mukherjee. The circular makes it clear that the same is applicable to the Government employees only and there is nothing to suggest that the same could apply to the employees of a college or a University receiving grant in aid.

In absence of any statutory provision or scheme for compassionate appointment, the petitioner cannot claim for compassionate appointment.

Accordingly, WPA 17189 of 2021 is dismissed.

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

(Kausik Chanda, J.)