

Court No. 24

09.02.2022

(Item No. 2)

(AB)

**W.P.A. 18976 of 2021
(via video conference)**

Tajammal Hoque

VS

The State of West Bengal & Ors.

Mr. Kalyan Kr. Chakraborty

Mr. Kashinath Bhattacharya

Mr. Benoybrata Bhowmik

Mr. Kaushik Dey

Mr. Ashok Halder

Ms. Anjana Mehebab

..... for the petitioner

Mr. Supriyo Chattopadhyay

Ms. Sayantanee Bhattacharjee

..... for the State

Mr. Biswabrata Basu Mallick

... for DPSC Uttar Dinazpur

The petitioner seeks compassionate appointment. His father was a Primary School Teacher, who died in harness on 23rd January, 1978. The petitioner was a minor at the time of death of his father. On attaining majority he made application for being appointed on compassionate ground in the year 1982.

The prayer of the petitioner was forwarded by the ad hoc Committee, District School Board, West Dinajpur to the Director of School Education (Primary) on 12th June, 1984. The prayer of the petitioner was rejected by the Director of School Education.

Being aggrieved by the said rejection, the petitioner approached this Court by filing writ petition being W.P. No. 9035 (W) of 2013 which stood disposed of by an order dated 8th June, 2015. The Court was pleased to set aside the impugned order of rejection and to direct the Chairman,

District Primary School Council, Uttar Dinajpur to consider the matter afresh and to take a decision in the matter.

The District Primary School Council duly considered the case of the petitioner afresh and passed the impugned order dated 30th July, 2015 rejecting the prayer of the petitioner once again. The ground for rejection is that the application seeking appointment ought to have been made within two years from the date of death.

In the present case, the application was admittedly made nearly four years after the date of death of the employee.

The petitioner submits that as the Gazette Notification relied upon by the authority was issued on 22nd November, 1991, long after the death of the father of the petitioner, accordingly, the said Circular does not have any retrospective effect and cannot be made applicable in his case.

That apart, the other ground for rejection is that the petitioner does not possess the requisite educational qualification as laid down in the Gazette Notification dated 24th July, 2012.

The petitioner submits that the said notification will also not be applicable in this case as the same does not have any retrospective effect.

I have heard the submissions made on behalf of the petitioner and have perused the documents relied upon by him.

The principle relating to providing appointment on compassionate ground has been settled by the Hon'ble Supreme Court in a catena of decisions. It has been settled that there can be no reservation in the matter of providing appointment on compassionate ground till a minor attains majority.

Admittedly, the petitioner was a minor at the time of death of his father. The authorities could not have legally reserved the vacancy for providing engagement to the petitioner as and when he attains majority.

Appointment on compassionate ground cannot be claimed as a matter of right. The same is offered only for tiding over the sudden financial crisis which the family faces on the death of the bread earner. Compassionate appointment is granted only upon relaxation of the regular recruitment rules for appointment.

Considerable time has passed between 1978 till 2022 and there is no point of showing any compassion to the petitioner at such a distant stage.

Moreover, the impugned order rejecting the prayer of the petitioner for being appointed on compassionate ground was passed in the year 2015 and the petitioner has sought to challenge the same in the year 2022. It appears that the petitioner is not seriously interested to pursue his case. Law does not favour passing any order in favour of an indolent litigant who approaches the Court at his own sweet will.

In view of the above, no relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

Affidavit of service filed in Court today be kept on record.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)