

29.08.2022
sayandeep
Sl. No. 41
Ct. No. 05

WPA 18361 of 2022

Tapan Das
-Versus-
The State of West Bengal & Ors.

Mr. Dhananjay Banerjee
Mr. Somnath Adhikari
Mr. Biswajit Sarkar

.....for the petitioner

Ms. Chaitali Bhattacharya
Mr. Kartik Chandra Kapas

.....for the State

Mr. Kingsuk Mondal

.....for the respondent Nos. 4 & 5

The petitioner has challenged an order of the District Magistrate and Collector, Murshidabad dated 24.06.2022 where the petitioner was the private respondent. By the said order, the petitioner was directed to provide monthly maintenance of three separate amounts to his widowed mother and two unmarried sisters. The petitioner has challenged the said order on the ground of jurisdiction of the District Magistrate to pass such an order and also on the ground that the District Magistrate cannot pass any order of maintenance.

Upon hearing learned counsel appearing for the State and the private respondents (widowed mother and two unmarried sisters), this Court is inclined to dismiss the writ petition. The reasons are as follows:

The impugned order relies on a Notification of the Labour Department of the State dated 3rd December,

2013 under which Clause 11 provides that a person appointed on compassionate ground under the Scheme must give in writing on an yearly basis that he will properly maintain other family members who were dependent on the government employee in question and in the event it is proved that the family members are not being properly maintained by the person appointed on a compassionate basis, his service may be terminated for violation of such undertaking under The West Bengal Services (Classification, Control and Appeal) Rules, 1971. The concerned Scheme is the West Bengal Scheme for Compassionate Appointment, 2013. Hence, this Court finds no infirmity in the impugned order of the District Magistrate which relied on the 2013 Scheme.

On the question of jurisdiction, Section 15 of The Administrative Tribunals Act, 1985, states the jurisdiction, powers and authority of State Administrative Tribunals which shall cover all service matters pertaining to service in connection with the affairs of the State concerning a person appointed in any service or post referred to in Section 15(b). Section 15(b) covers all service matters concerning a person appointed in any civil service of the State or any civil post under the State pertaining to service of such person in connection with the affairs of the State or any local authority under the control of the State. Section

2 (q) defines “service matters” as those matters in relation to a person relating to the conditions of his service in connection with the affairs of the Union or any State.

There is no doubt that the petitioner was given compassionate appointment in relation to the service of his father who was a U.D. Assistant to the office of the District Magistrate and Collectorate, Murshidabad. Hence, District Magistrate was empowered under the 1985 Act to pass the impugned order. It also appears from an order of the West Bengal Administrative Tribunal dated 25.04.2022 that the District Magistrate was directed to consider the application made by the private respondents and dispose of the representation made by the private respondents by way of a reasoned order. Therefore, there is little doubt that the District Magistrate and Collectorate acted in terms of this order and cannot be faulted on the jurisdictional aspect.

It is arguable whether the present writ petition is maintainable since Section 28 of The Administrative Tribunals Act, 1985 provides for exclusion of jurisdiction of all Courts except the Supreme Court in relation to recruitment and matters concerning recruitment to any service of post concerning members of the State.

In any event, the impugned order of the District Magistrate is a reasoned order and there is no ground

to hold that the petitioner, who is the beneficiary of a compassionate appointment, should not be called upon to maintain his widowed mother and two unmarried sisters who were admittedly the dependents of the petitioner's deceased father.

In view of the above reasons, this Court finds no merit in the present writ petition which is dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)