

1.
18-01-2022
debajyoti
(Ct. no.06)

FMA 2363 of 2014
with
IA NO:CAN/1/2014 (Old NO:CAN/6220/2014)

Kanchan Sardar & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Atarup Banerjee,
Mr. Kamal Mishra,
Mr. Samit Bhanja

... For the Appellants.

Mrs. Kakali Samajpaty,
Ms. Sudipa Samanta

... For the State.

This appeal is preferred against an order dated April 21, 2014, whereby W.P.9691(W) of 2014 was disposed of. The writ petitioners are the appellants before us.

The writ petitioners are the wife and son of an erstwhile employee of the Health Department of Government of West Bengal, who died-in-harness. The son of the deceased employee applied for compassionate appointment. He was admittedly a minor at the relevant point of time. The learned Single Judge dismissed the writ petition mainly relying on the Special Bench judgment of this Court in the case of Piali Saha Vs. State of West Bengal, reported in 2013 (1) CHN (CAL) 18. The learned Judge also observed that appointment on compassionate ground is not another source of recruitment, but merely an exception to the general requirement that public appointments should be

made strictly on the basis of open invitation of applications and/or merit.

We are of the view that the writ petition ought not to have been entertained by the learned Judge at all. The proper forum would have been the State Administrative Tribunal, since the son of the deceased employee was seeking appointment in a department of the State Government.

Only on the basis of lack of jurisdiction of this Court to entertain the writ petition, the order under appeal is set aside. If the writ petitioners are entitled in law to approach the appropriate forum, they may do so.

With the above observations, the appeal and the connected application are disposed of.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)