

05.
20.09.2022.
Ct. No. 21.
F.B.

WPA 19120 of 2022

**Sumitra Devi & Anr.
-Vs.-
Union of India & Ors.**

**Mr. S. K. Datta,
Mr. Uday Narayan Betal,
Mr. Barun Chatterjee
..... For the Petitioners.**

**Mr. Ranjay De,
Mr. B. Banerjee
..... For the Respondent
Nos. 3 to 5.**

This writ petition arises out of a prayer for compassionate appointment of the petitioner no. 2. The husband of the petitioner no. 1 died-in-harness on March 11, 2017. The petitioner no. 2 is the son of the petitioner no. 1 and deceased employee.

The petitioner no. 1 made a representation on December 5, 2017 for appointment of her son/the petitioner no. 2 on the ground of compassionate appointment. Subsequent representations were also made on September 7, 2018 and December 4, 2019.

After considering the representations made by the petitioner no. 1, the respondent no. 5 intimated that the prayer for compassionate employment was to be kept pending and the name of the petitioner no. 1's son was recorded in the register on December 5, 2017 that was being maintained for the purpose. It was also

stated in the said reply that the large number of applications were lying pending for compassionate employment and also there was a Court case pending before the Hon'ble High Court at Calcutta on the same subject. Therefore, no compassionate employment was at present granted to any of the dependants. Therefore, the request for compassionate appointment of the petitioner no. 1's son could not be "conceded to".

By an order dated February 21, 2022 a Co-ordinate Bench of this Hon'ble Court decided that no decision on the entitlement of the writ petitioners who were similarly placed in **WPA 13605 of 2016 (GRSE Limited Workmen's Union & Ors -Vs.- Garden Reach Shipbuilders & Engineers Limited & Ors.)** ought not to be taken, since it has to be first decided whether the policy prevailing at the time of the death or the policy which was in vogue at the time of taking the decision is to be considered for such appointments was the relevant policy, since the issue was pending before the larger Bench of the Apex Court and the matter was delisted.

Mr. Betal, Learned Counsel appearing on behalf of the petitioners, submits that the said issue is not relevant to the present facts of the case, since the petitioner no. 1's husband died in 2017 when the August 27, 2013 rules were already applicable. There is no dispute as to the applicable policy at the time of the

death as opposed to the applicable policy at the time of taking of the decision since it is the same policy that is applicable.

Mr. De, Learned Counsel appearing on behalf of the respondents also, submits that the representation of the petitioners have already been considered and the question of petitioner no. 2's appointment can only be considered in accordance with the extant rules of the Company.

He submits that it is the August 27, 2013 rules/guidelines which are applicable in the case of the appointment of the petitioner no. 2 on compassionate ground.

Having considered the rival submissions of the parties and the materials place on record, I direct the respondent no. 5 to reconsider the representations made by the petitioner no. 1 in the light of the fact that the Court case pending before the Hon'ble High Court at Calcutta is not on the subject issue, since there is no dispute between the parties as regards the rules/guidelines of the Company that is applicable while considering the issue of compassionate appointment of the petitioner no. 2.

Let the representations of the petitioner no. 1 be considered within eight weeks from date upon giving a

personal hearing to the petitioner no. 1 or her delegated representatives.

Let the reasoned order be passed upon hearing of the petitioner no. 1/her delegated representatives.

Let such order be communicated within two weeks from the date of passing of the same.

Since no affidavits have been called for in this writ petition, all allegations contained therein are deemed not to have admitted.

In the light of the discussions above, this writ petition, being **WPA 19120 of 2022** is **disposed of**.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

(Lapita Banerji, J.)