

11. 29.11.2022
BD Ct.15

W.P.A. 18698 of 2014
CAN 1 of 2019 (Old CAN 6708/2019)
CAN 2 of 2019 (Old CAN 9447/2019)
CAN 3 of 2020 (Old CAN 1170 of 2020)
CAN 4 of 2021

Smt. Sukro Oraw

-vs-

The State of West Bengal & Ors.

Mr. Debjyoti Basu
Mr.Chandan Kumar Lal
... for the petitioner.

Mr. Alak Kumar Ghosh
Mr. Swapan Kumar Debnath
... for the KMC

The writ petition is directed against an order of the Deputy Municipal Commissioner (Personnel) dated 12th August, 2013 whereby the claim of the petitioner for appointment on compassionate ground was spurned on the ground that the husband of the petitioner namely Sukra Oraw was a casual employee of Kolkata Municipal Corporation and being the wife of a casual employee, petitioner was found ineligible to get such appointment.

Mr. Basu, learned advocate representing the petitioner has submitted that in view of the order passed by a coordinate Bench on the writ petition being WPA 27648 of 2012 the petitioner ought not to be considered as a wife of casual employee. It has been submitted on behalf of the petitioner on placing reliance on the order dated 29th January,

2013 passed by the coordinate Bench that Sukra Oraw, husband of the petitioner, was son of one Bandhu Oraw. Due to death of Bandhu Oraw said Sukra Oraw got appointment on compassionate ground. Therefore due to death of Sukra Oraw on 19th June, 2010 petitioner needs to be considered for appointment on compassionate ground being the wife of Sukra Oraw and claim of the petitioner cannot be turned down on the premise that Sukra Oraw was a casual employee.

Mr. Ghosh, learned advocate, representing the KMC upon placing reliance on the affidavit in opposition to the writ petition affirmed on 4th November, 2022, paragraph 5, has submitted that husband of the petitioner was never engaged on permanent basis and identity card of the petitioner's husband goes to show the same was valid up to 31st December, 2001 which is prior to the death of the petitioner's husband on 19th June, 2010. It has also been submitted that in terms of the relevant circular dated 14th January, 1988 being No. 98 of 1987-88 only an employee working substantively in the event of his death, prayer for appointment on compassionate ground can be considered.

This Court has heard the submissions made on behalf of the learned advocates representing the parties and perused the relevant materials available on record including the affidavits used by the parties.

In this writ petition Court has considering the order dated 12th August, 2013 of the Deputy

Municipal Commissioner (Personnel) whereby the prayer of the petitioner for appointment on compassionate ground was rejected. It is true that the decision was taken by the said Deputy Municipal Commissioner pursuant to the order of the coordinate Bench dated 29th January, 2013 wherein it was recorded that husband of the petitioner obtained appointment on compassionate ground due to death of his father who was an employee under the Corporation but this Court while deciding the issue on entitlement of the petitioner, whether to be found eligible for appointment on compassionate ground, has to consider the purport of the said order in consideration of the relevant scheme or circular of the Corporation which grants right to the member of the family of the deceased employee to be considered for such appointment. It appears from the said order dated 12th August, 2013 that chiefly the claim of the petitioner for appointment on compassionate ground was turned down since the petitioner is wife of a casual employee. From the pleadings made in the writ petition as well as in the supplementary affidavit the petitioner has not been able to controvert the stand taken by the concerned authority of KMC with regard to the nature of appointment of the husband of the petitioner i.e., casual employee. On the query being made to the learned advocate representing the petitioner whether the husband of the petitioner worked as a permanent employee or not this Court does not get any satisfactory answer except reliance being placed on the order of the coordinate Bench dated 29th January, 2013. Therefore, it appears to this Court

that the husband of the petitioner was not the permanent employee of KMC and on factual aspect this Court does find that the order dated 12th August, 2013 of the Deputy Municipal Commissioner (Personnel) is correct.

Accordingly, this Court does not find any merit in the writ petition and the same stands dismissed. Applications, if any pending, also stands dismissed. However, there shall be no order as to costs.

However, this order shall not prevent the petitioner from approaching the concerned authority of KMC for payment of benefits, if payable in accordance with law.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)