

Court No. 24

14.03.2022

(Item No. 12)

(AB)

W.P.A. 21085 of 2021

Rubi Roy

VS

The State of West Bengal & Ors.

Mr. Anjan Bhattacharya

..... for the petitioner

The petitioner seeks compassionate appointment.

The father of the petitioner was a Primary School Teacher, who died in harness on 23rd June, 2006. Application was made for providing compassionate appointment within the prescribed period of limitation. Such application not being considered by the respondent authority the petitioner was constrained to approach this Court for relief.

The Court in WP No. 17872(W) of 2012 (Dipti Roy & Anr. Vs. The State of West Bengal & Ors.), by an order dated 24th July, 2015, disposed of the writ petition by directing the Chairman, Birbhum District Primary School Council to consider and decide upon the prayer of the second writ petitioner within a specified period of time.

In compliance of the direction passed by the Court Birbhum District Primary School Council passed an order on 16th October, 2015 rejecting the prayer of the petitioner for compassionate appointment on the ground that the condition of the petitioner was not to be taken as in extreme financial hardship that the family badly needs an employment.

The petitioner challenged the said impugned order of rejection by filing a writ petition being AST. 386 of 2017 (Rubi Roy Vs. State of West Bengal & Ors.). The said writ petition stood dismissed for default by an order dated 8th January, 2018. Thereafter, the petitioner filed the instant writ petition in November, 2019.

The petitioner submits that the order of rejection of the prayer of the petitioner is bad in law. The circular which has been relied upon for rejecting the prayer cannot be made applicable in case of the petitioner.

The petitioner relies upon a judgment delivered by the Hon'ble Division Bench of this Court in FMA 79 of 2005 (Nazrul Islam & Anr. Vs. State of West Bengal & Ors.) reported in (2009)1 CHN 339 in support of her case.

It appears from the documents annexed to the writ petition that the Court vide order dated 24th July, 2015 directed the respondent authorities to consider the application made by the petitioner in the year 2008 to be considered by the Council. Her prayer was considered, rejected and communicated in the year 2015. The petitioner challenged the same by filing a subsequent writ petition in 2017 but thereafter did not take proper steps to pursue the case. The writ petition stood dismissed for default in January, 2018. Thereafter in November, 2019 the petitioner filed the present writ petition.

Had the petitioner been really aggrieved by the order of rejection and had she been in real financial need she ought to have approached the court at once after

getting knowledge of the order in 2015 itself or immediately thereafter. The petitioner challenged the order of rejection in 2017, but again failed to diligently proceed with the same. After dismissal of the writ petition in January 2018, the present writ application was filed in November 2019. Not a word has been mentioned in the writ petition explaining the delay in approaching the court. By the time the present writ petition was filed nearly four years elapsed after rejection of her prayer.

The conduct of the petitioner in pursuing her case raises serious doubts in the mind of the court with regard to the genuineness of the claim of the petitioner. Had the petitioner been in financial crisis she ought to have approached the court earlier and should have persistently followed her claim.

It is well settled that compassionate appointment can never be claimed as a matter of right. The same is a concession. The very object and purpose of granting compassionate employment is to enable the family to tide over the sudden financial crisis faced on the death of the bread winner. The idea is not to give appointment to the member of the family. Compassionate appointment can be given only in terms of a scheme and such prayer has to be dealt with extreme urgency as the livelihood of the family may be at stake. Delayed approach is fatal.

In the present case, the teacher died in the year 2006. In the year 2022, long sixteen years after the death of the teacher, the prayer of the heir of the deceased ought

not to be taken up for consideration for providing appointment on compassionate ground. The very object of providing appointment on compassionate ground gets frustrated if such delayed claims made by parties are to be entertained by the Court.

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.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)