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14.11.2022
S.D.

W.P.A. 22088 of 2022

Tarun Dey
Vs.
The Union of India & Ors.

Mr. Dipayan Kundu

... For the Petitioner

Mr. Bhudeb Chatterjee

Mr. Sarnabha Ghosh

..For the Respondent

The petitioner's case is that his father died-in-harness on July 19, 2008 while being employed as a driver in the Central Industrial Security Force (in short "CISF"). The petitioner made an application for compassionate appointment and such prayer was initially considered by the authority concerned for the purpose of a Cook. Thereafter, the said post was abolished and the petitioner was considered for the post of Constable.

Mr. Kundu, learned counsel appearing on behalf of the petitioner submits that in the refusal letter dated February 23, 2013, the petitioner's prayer was not considered since he had secured certificate from Senior Secondary Education, Madhya Bharat for evidencing the fact that he has completed his secondary education, but the same was not accepted by the Council of Board of Secondary Education in India. He

submits that the subsequent certificate by the West Bengal Council of Rabindra Open Schooling was not considered for the said appointment.

Mr. Chatterjee, learned counsel appearing on behalf of the respondent authorities draws the attention of this Court to the Office Memo dated July 19, 2014 whereby the petitioner's appointment was rejected not on the ground that he has not qualified Madhyamik examination, but on the ground that he was less than 10 cms short of the height required for being appointed as a constable in CISF. Even though a relaxation of 7.5 cms is granted for the candidates applying on compassionate ground, but since the petitioner was more than 7.5 cms short, his candidature could not be considered for compassionate appointment.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that when the initial refusal was made on February 23, 2013, the petitioner's certificate by the West Bengal Council of Rabindra Open Schooling was not available with the office of the Senior Commandant, CISF since admittedly the Madhyamik examination was held in June 2013. Furthermore, while the final letter of rejection was issued on July 19, 2014, it appears that the academic qualification of the

petitioner was not in issue. It was only the physical attribute of the petitioner being less than 10 cms short of the requisite height that was considered.

There was no further communication from 2014 till 2022 when the petitioner made the present representation for compassionate appointment. No explanation has been given why no steps have been taken by the petitioner from 2014 till 2022. The purpose of compassionate appointment in case of death of an employee is to save the family from an immediate financial crisis, i.e. likely to arise in case of death of the bread earner of the family. A significant lapse in time is not conducive to the factors that are considered for the purpose of giving appointment on compassionate ground.

In the light of the discussions above, the writ petition being **W.P.A. 22088 of 2022** is **dismissed** without any order as to costs.

Since no affidavits have been invited in the present writ petition, the allegations contained therein are deemed not have been admitted by the parties.

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

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

(Lapita Banerji, J.)