

Court No. 22
14.6.2022
(Item No. 4)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 21438 of 2005

Vinay Prakash Pathak
VS
The State of West Bengal & Ors.

Mr. Prahalad Chandra Ghosh
..... for the petitioner
Mr. Milan Kumar Maity
..... for the State

Mr. Prahalad Chandra Ghosh, learned advocate appears for the petitioner.

Mr. Milan Kumar Maity, learned advocate appears for the State.

The writ petition was previously dismissed on the ground of default by an order dated February 18, 2015, however, the same was restored to its file by an order dated August 31, 2017.

The father of the writ petitioner was an Assistant Teacher of one Adarsha Hindi High School, Tallygunge for short, (the said school) who died in harness on November 22, 1978 during such employment. The petitioner was minor then. The mother of the petitioner made a representation before the third respondent on January 14, 2002 praying for a compassionate appointment in favour of the petitioner when the petitioner had qualified his Madhyamik Examination. The petitioner is handicapped and suffering from 65% disability. As no

step was taken by the said authority on the said representation, a writ petition was moved earlier. by an order dated September 4, 2002 passed by a co-ordinate Bench the said earlier writ petition was disposed of directing the respondent authority to consider the said writ petition as a representation and to dispose of with a reasoned order. Ultimately by a reasoned decision dated January 13, 2005 the third respondent rejected the prayer for the compassionate appointment as was sought for. Assailing the said order of rejection passed by the third respondent the instant writ petition was filed.

Though by an order dated March 2, 2006 parties were directed to file their respective affidavits, no affidavit-in-opposition was filed on behalf of the respondents.

From the said impugned decision of the third respondent dated January 13, 2005 it appears that, the application of the petitioner for registering his name in the life registrar for the died in harness category by the concerned school was received by the said appropriate authority of the State in February, 2002. At the time of submission of this application the age of the petitioner was 33 years, when by that time about 23 years had passed from the death of his father, who died on November 22, 1978. Accordingly by the decision dated March 21, 2003 such plea of the

petitioner was rejected on the ground mentioned in the said impugned decision.

The law is well settled that, compassionate appointment is not a matter of right. In case of an untimely or sudden death of an employee during employment, if the situation so arises that the family cannot immediately survive due to such loss of employment of the Government employee to give a chance for survival to such family, compassionate appointment is provided. In the instant case, as discussed above, the family of the employee could survive for about 23 years after his death. Therefore the precondition for compassionate appointment was not available to the petitioner.

From a close scrutiny of the impugned order it appears, to this Court, that there is no infirmity and the same is a speaking order. The said impugned order, thus, does not call for any interference by this Court. The same stands affirmed.

In view of the foregoing discussions and reasons the writ petition **WPA 21438 of 2005** stands dismissed.

There was, however, be no order as to costs.

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

(Aniruddha Roy, J.)