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rkd Ct.15

W.P.A. 24809 of 2017
(Through Video Conference)

Pragati Dutta
-vs-
The State of West Bengal & Ors.

Mr. Samarendra Nath Biswas

....for the petitioner.

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal

....for the State.

The writ petition pertains to appointment on compassionate ground since the husband of the petitioner died on 17th April, 2011. The petitioner being the wife of the deceased teacher made application for appointment on compassionate ground at the relevant point of time and accordingly, the District Inspector of Schools (S.E.), Birbhum, the concerned respondent authority took decision on 10th September, 2015 whereby claim of the petitioner was refused. Such refusal by the concerned respondent authority to grant appointment in favour of the petitioner on compassionate ground triggered the first writ petition being W.P. 3033(W) of 2016. The said writ petition was disposed of vide order dated 8th February, 2017 whereby the previous order of the concerned District Inspector of Schools (S.E.), Birbhum dated 10th September, 2015 was set aside

thereby directing the concerned authority to reconsider the claim of the petitioner for appointment on compassionate ground.

Pursuant to such order of the coordinate Bench dated 8th February, 2017 the District Inspector of Schools (S.E.), Birbhum being the respondent no.4 has passed an order vide issuing Memo dated 25th August, 2017 which is under challenge in the present writ petition. By issuing Memo dated 25th August, 2017 the respondent no.4 spurned the prayer of the writ petitioner upon coming to the conclusion that the petitioner was not in dire need of financial assistance warranting appointment in favour of the petitioner on compassionate ground. In addition thereto, there was a finding by the respondent no.4 that though there was an allegation of taking loan by the husband of the petitioner for his treatment to the tune of Rs.4.50 lakhs but no document in support of taking such loan was produced by the petitioner before the concerned respondent no.4 in spite of granting opportunity to the petitioner.

This Court has heard Mr. Biswas, learned advocates as well as Mr. Chattopadhyay, learned senior Government advocate.

It appears on perusal of previous order

passed by this Court on this writ petition that in spite of giving direction by this Court no affidavit-in-opposition has been used on behalf of the State respondents. However, at the time of hearing of the writ petition Mr. Chattopadhyay has defended the decision of the respondent no.4 and submitted that the respondent no.4 on subjective satisfaction has come to the conclusion that there was no financial requirement which is *sine qua non* for according appointment on compassionate ground.

On perusal of the decision of the respondent no.4 as contained in Memo dated 25th August, 2017, it appears though District Inspector has proceeded on the basis of income of the petitioner but the exercise which was required to be carried out in terms of Schedule V of the West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff) Rules, 2009 was not done. As per the “explanation” as contained under Schedule V the respondent no.4 is required to find out whether income of the petitioner is less than the initial gross salary of Group-D Staff of the State Government at the material point of time or not by disclosing the monthly income of the petitioner as well as initial gross salary of Group-D Staff. Since

the respondent no.4 has not carried out such exercise as he was required to do the impugned Memo dated 25th August, 2017 is set aside by remanding the matter to the respondent no.4 with the direction to take a fresh decision on the claim of the petitioner for appointment on compassionate ground within a period of eight weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or her representative. At the time of consideration of the claim of the petitioner, it will be open to the petitioner to disclose the valid documents relating to the loan which her husband obtained for his treatment.

The respondent no.4 shall pass a reasoned order and the same shall be communicated to the petitioner within one week thereafter.

With the above direction, the writ petition stands disposed of.

However, there shall be no order as to costs.

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

(Saugata Bhattacharyya, J.)