

21.11.2022

WPA 23452 of 2022

**Swapan Baidya
-Vs-
Union of India & ors.**

**Mr. L. Bhattacharyya
... for the petitioner**

**Mr. Brajesh Jha
Mr. S. K. Tiwari
... for the Respondent Nos. 1 to 6**

**Mr. Bhaskar Prasad Vaisya
Mr. Sagnik Chatterjee
.... For the State**

In this writ petition, the petitioner claims that the private respondent no.11 being his brother, got an employment on compassionate appointment due to the death of their brother, who died in harness.

The petitioner claims that the he did not sign the “No Objection” in favour of the private respondent no.11. Therefore, the private respondent no.11 was not eligible to be appointed in the said category.

Furthermore, despite the fact that his other family members gave “No Objection” in his favour and the private respondent no.11 undertook to provide maintenance to them, he has miserably failed in his duties and responsibilities.

Mr. Bhattacharyya, Learned Counsel, appearing on behalf of the petitioner, submits that the private respondent no.11 also did not have the requisite qualification to be appointed to the post of Peon as he

was not a Class-VII passed candidate. He submits that a false certificate was procured from the respondent no.10 to show that he was Class-VIII passed candidate.

Mr. Jha, Learned Counsel, appearing on behalf of the Respondent Nos. 1 to 6, submits that after the necessary “No Objections” were taken from the family members of the deceased employee, the private respondent no.11 was considered for being appointed on compassionate grounds.

Furthermore the necessary certificate showing the requisite academic qualification of the Private Respondent was also produced by him and considered by the Respondent Authorities. Therefore, the respondent authorities were well within their rights/authority to appoint the private respondent no.11 to the post of Peon.

Furthermore, the attention of this Court is drawn to paragraph 3 of the representation of the petitioner annexed at page 23 of the writ petition. From the said paragraph, it appears that the “No Objection” in favour of the respondent no.11 was given by all the family members. Therefore, the question of the petitioner not giving his “No Objection” does not and cannot arise at this stage.

Having considered the rival submissions of the parties and the materials placed on record, this Court

is of the view that justice will be subserved by directing the concerned respondent/the respondent no.3 to consider the representation of the petitioner annexed at page 23 of the writ petition keeping in mind the issue of whether or not “No Objection” was given by him in favour of the respondent no.11.

A reasoned order shall be passed by the within 10 weeks from date.

Let the reasoned order be communicated to the petitioner within two weeks thereof.

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

With the aforesaid directions, WPA **23452 of 2022** is **disposed of**.

All parties to act on a server copy of this order duly obtained from the official website of the Hon’ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J.)