

03. 19.09.2022
bd. Ct.15

W.P.A. 22237 of 2019

Nirmalya Naga

-vs-

State of West Bengal & Ors.

Mr. Sourav Mitra

Ms. Sanchaita De

... for the petitioner.

Mr. Biswabrata Basu Mallick

Mr. Sudddeb Adak

... for the State

Matter relates to appointment on compassionate ground to be accorded in favour of the petitioner who is son of a deceased assistant primary teacher. The mother of the petitioner being an assistant primary teacher died in harness on 21st May, 2011 and subsequent to the death of the mother of the petitioner application was made for according appointment in favour of the petitioner on compassionate ground. Ultimately, the matter has been decided by the Commissioner of School Education, Government of West Bengal, being the respondent no. 2 vide memo dated 31st October, 2017 which is subject matter of challenge in the writ petition.

Mr. Sourav Mitra, learned advocate, representing the petitioner has questioned the decision of the respondent no. 2 as contained in memo dated 31st October, 2017 on the ground that based on the pension of the father of the petitioner who is also a retired primary assistant teacher as well as taking into consideration the income from other sources came to a conclusion that at the

material point of time family income of the petitioner was Rs. 10,245/- which is greater than Rs, 10,200/- which was found to be the monthly salary of a Group-D employee working under Government of West Bengal. It has been contended that a specific averment has been made in the writ petition that monthly pension of the father of the petitioner at the relevant point of time was Rs.6168/- therefore if Rs.1200/- is added to Rs. 6168/- which does not come to Rs. 10,245/-but the amount would be lesser than Rs. 10,200/-; therefore, it has been contended that on what basis the respondent no.2 came to a conclusion that the monthly income of the petitioner family was Rs. 10,245/- at the material point of time is not clarified in the said impugned memo dated 31st October, 2017.

The State respondents are represented by Mr. Basu Mallick, learned advocate, who has defended the decision of the respondent no. 2 as contained in memo dated 31st October, 2017 and has submitted that since the parents of the petitioner were primary teachers therefore in terms of the relevant provisions the entire monthly pension of the father of the petitioner was taken into consideration while deciding the entitlement of the petitioner to be appointed on compassionate ground since claim of appointment on compassionate ground was made due to death of the mother of the petitioner.

This Court has heard learned advocates representing the parties and perused the relevant

materials available on record.

On perusal of the decision of the respondent no. 2 as contained in memo dated 31st October, 2017 it appears that the finding of the respondent no. 2 to the extent that the monthly income of the family of the petitioner at the material point of time was greater than the monthly salary of a Group-D employee working under Government of West Bengal is not based on necessary particulars rather it appears that the decision is cryptic. Respondent no. 2 has not indicated monthly pension of the father of the petitioner which was taken into consideration while arriving at the conclusion that Rs. 10,245/- was the monthly income of the family of the petitioner.

In view of the aforesaid position this Court finds it apt to set aside the decision of the respondent no. 2 as contained in memo dated 31st October, 2017 and directs the respondent no. 2 to revisit the issue within a period of twelve weeks from the date of communication of this order after granting opportunity of hearing to the petitioner or his representative. The decision to be taken by the respondent no. 2 must contain cogent reasons and particulars and the same to be communicated to the petitioner within one week thereafter.

With the aforesaid direction the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)