

21.03.2022
Ct. 25
D/L 10
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WPA 26212 of 2018

Dipanwita Chattopadhyay

-Vs-

The State of West Bengal & Ors.

Mr. Debabrata Roy,
Mr. Arun Kr. Halder,
Mr. Soumik Mondal,
Ms. Sarbani Mukhopadhyay,

... for the petitioner

Mr. Supriyo Chattopadhyay,
Mr. Sabyasachi Mondal,

... for the State

The petitioner claims compassionate appointment. She is the daughter of one Debasis Chattopadhyay, who died-in-harness on July 20, 2010 while serving as a clerk of a High School. The widow of the said deceased made a representation before the authorities, which was received by the concerned authorities on May 22, 2012 praying for giving appointment to the petitioner herein, being her daughter, on compassionate ground.

The mother of the petitioner filed a writ petition being W.P. 17246(W) of 2012, which was disposed of by an order dated October 16, 2021 by directing the District Inspector of Schools (SE), Nadia to dispose of

the representation dated June 22, 2012 by passing a reasoned order within the time limit specified in the said order.

The grievance of the petitioner is that in spite of the fact that this Hon'ble Court directed the concerned authority to consider the case of the daughter of the deceased, that is the petitioner herein but the said authority rejected the prayer for compassionate appointment by considering the age of the widow of the deceased. Thus, according to the petitioner, the claim for compassionate appointment of the daughter was not considered by the authorities, which compelled the petitioner to file the instant writ petition.

Mr. Roy, learned advocate for the petitioner submitted that the representation dated May 22, 2012 was directed to be considered by this Hon'ble Court and no representation was made either by the widow or by the present petitioner on June 22, 2012 and a typographical error has crept in the order dated October 16, 2012 passed in W.P. 17246(W) of 2012 with regard to the date of such representation. Such fact is also not disputed by the learned advocate appearing for the State. He further submits that in spite of his best efforts, he could not trace out the copy of the earlier writ petition.

Mr. Chattopadhyay, learned Senior Advocate appearing for the State submits that since the petitioner, at the relevant point of time was a minor and therefore, not eligible for appointment on compassionate ground, her case was not considered by the concerned authority.

Heard the learned advocates for the parties and perused the materials on record. This Court pointed out to the learned advocate for the petitioner that the representation, which is annexed at page 22 of the writ petition was submitted only on November 1, 2018 which was long after passing of the order dated February 12, 2013 by the concerned respondent and such delay remains unexplained, Mr. Roy submits that the petitioner is tracing her claim for compassionate appointment on the basis of the representation dated May 22, 2012 and she is not pressing the said representation in support of such claim.

In view of such submission of the petitioner, this Court proceeds to test the correctness of the order dated February 12, 2013 pursuant to the representation dated May 22, 2012.

On perusal of the representation dated May 22, 2012, it appears that the widow of the deceased requested the authorities to give appointment to her

daughter, that is the petitioner herein, on compassionate ground. Such prayer was directed to be considered by this Hon'ble Court by an order dated October 16, 2012. However, the District Inspector of Schools (SE), Nadia rejected the prayer for compassionate appointment on the ground that the age of the widow of the deceased exceeds the maximum age for such appointment, which has been fixed at 45 years. However, no decision was taken by the authority insofar as the claim of the daughter is concerned.

This Court is thus of the view that the District Inspector of Schools (SE), Nadia while passing the order dated February 12, 2013 did not consider the request made by the widow of the deceased as contained in the representation dated May 22, 2012. The order suffers from total non-application of mind of the concerned authority.

In view thereof, the order dated February 12, 2013 passed by the District Inspector of Schools (SE), Nadia is hereby set aside and quashed. The District Inspector of Schools (SE), Nadia, being the respondent No. 3 herein, is directed to reconsider the representation which was received by the authorities on May 22, 2012 appearing at page 22 of the writ petition, afresh in accordance with law after giving an opportunity of hearing to the petitioner and to dispose

of the same by passing a reasoned order, which shall be communicated to the petitioner. The entire exercise shall be completed within a period of eight weeks from the date of communication of this order.

With the above directions, the writ petition being WPA 26212 of 2018 stands disposed of.

There shall be no order as to costs

Parties are to act on the server copy of this order duly downloaded from the official website of this Court.

(**Hiranmay Bhattacharyya, J.**)