

14.
16.1.2023
S.D.

W.P.A. 567 of 2023

Chaitali Mitra
Vs.
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
...For the petitioner

Affidavit of service filed in Court today be retained
with the records.

Despite the service, no one appears on behalf of the
State respondents.

The petitioner's case is that her father was an employee
of West Bengal National Volunteer Force. Her father died-in-
harness on September 21, 2013. An application for
appointment on compassionate ground was made by her
mother on January 20, 2014.

The application for compassionate appointment of the
petitioner was turned down by an office order dated July 11,
2016 since the petitioner was a married daughter of the
deceased employee.

The issue with regard to married daughter not being
eligible for appointment on compassionate ground has been
considered by a Special Bench judgement of this Hon'ble

Court in F.M.A. 1277 of 2015 (**State of West Bengal & Ors vs. Purnima Das & Ors.**).

Mr. Bhattacharya, learned counsel appearing on behalf of the petitioner draws the attention of this Court to paragraph 113 of the said judgment in support of his contention that since the adjective '**unmarried**' before the word daughter is struck down as being violative of the Constitution, the married daughter was eligible for appointment on compassionate ground if otherwise the stringent criteria for appointment are fulfilled by her. The married daughter is required to show that on the date of death of the Government employee concerned, she was entirely dependent on the earnings of her father/mother (Government Employee) and also was agreeable to look after the other family members of the deceased.

He also draws the attention of this Court to the Government Notification dated November 4, 2022 regarding the proposed provision permitting a daughter (including legally adopted daughter before the death or incapacitation or missing of an employee) to be considered for compassionate appointment in place and stead of '**unmarried**' daughter (including legally adopted daughter before death or incapacitation) that is the existing provision.

He prays for consideration of the representation made by the petitioner on November 30, 2022 by the State Commandant, West Bengal National Volunteer Force Directorate situated at Kalayani.

Having considered the submissions made by Mr. Bhattacharya and also the materials placed on record, this Court directs the reconsideration of the prayer for compassionate appointment of the petitioner dated November 30, 2022 in the light of the Special Bench Judgment of this Hon'ble Court dated September 13, 2017 in F.M.A. 1277 of 2015 (**State of West Bengal & Ors vs. Purnima Das & Ors.**) and also in the light of the proposed provision as per the Notification dated November 4, 2022 vide Memo No. LABR/419/Law.

Let such representation be considered within six weeks from date upon giving a personal hearing to the petitioner. A reasoned order be passed on the said representation and the same be communicated to the petitioner within two weeks of passing thereof.

The order dated July 11, 2016 is set aside and/or quashed in view of the Special Bench Judgment of this Hon'ble Court.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the writ petition are deemed not to have been admitted by the parties.

With the directions aforesaid, **W.P.A. 567 of 2023** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)