

14.09.2023
Item No.10
Court No.6.
S. De

F.M.A. 784 of 2019

With

I.A. No. CAN/1/2022

Tapas Fulmali.

Vs

The State of West Bengal & Ors.

Md. Salahuddin.,
Md. Ahsanuzzaman,
Md. Raziuddin,

...for the appellant.

Mr. Biswabrata Basu Mullick, Ld. A.G.P.,
Mr. K.M. Hossain,

...for the State.

By consent of the parties the appeal and the connected application are taken up together for hearing.

A judgment and order dated July 16, 2018 whereby the appellant's writ petition being W.P. No. 3962(W) of 2018 was dismissed by a learned Single Judge of this Court, is under challenge in this appeal.

The appellant approached the learned Single Judge seeking compassionate appointment upon his father dying in-harness as an employee of Nalhati Municipality.

The learned Judge dismissed the writ petition relying on the decision in the case of **Gobinda Hazra Vs. State of West Bengal & Ors. (W.P. 13147(W) of**

2017) where it was held that there is no subsisting scheme for grant of compassionate appointment in a Municipality.

Being aggrieved, the present appeal has been filed by the writ petitioner.

In the mean time this issue travelled to the Hon'ble Supreme Court and by a judgment and order dated March 3, 2023, in the case of ***The State of West Bengal Vs. Debabrata Tiwari & Ors (Civil Application Nos. 8842/2022-8855/2022)***, the Hon'ble Apex Court has held that unless there is a scheme in the Municipality for granting compassionate appointment, such appointment cannot be claimed as of right by the legal heir of the employee who dies in- harness. Admittedly there is no scheme for compassionate appointment in Nalhati Municipality.

In view of the aforesaid, we have no other alternative but to dismiss this appeal. However, we clarify that in future, if any scheme of compassionate appointment is framed in Nalhati Municipality, the appellant herein would be at liberty to apply under such scheme and his application shall be considered in accordance with law.

FMA 784 of 2019 is disposed of along with the application being I.A. No. CAN 1 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)