

28.07.2023

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WPA 883 of 2021

Saraswati Saha

– Versus –

**West Bengal State Electricity
Distribution Co. Ltd. & Others**

Mr. Neil Basu,
Mr. Rahul Gupta
... for the Petitioner.

Mr. Sujit Sankar Koley
... for the Respondents.

Questioning the defensibility of the reasoned order passed by the General Manager, (HR&A), WBSEDCL which was communicated to the petitioner under a Memo *vide.* dated 18th November, 2020, this writ petition has been preferred.

The fact, as unfurled in the writ petition, is that the father of the writ petitioner, who happened to be an employee of the respondent no.1 at its customer care centre, Rampurhat, Birbhum, died in harness on 21st November, 2011. The petitioner's mother, being widow of the employee wrote two letters dated 11.01.2012 and 30.05.2016 to the competent authority seeking compassionate appointment of the petitioner. As those letters were not considered, the petitioner made a further representation to the authority concerned through her learned advocate on 27th June, 2018 but no step has been taken to favour

the petitioner with compassionate appointment. Aggrieved thereby, the petitioner was constrained to approach this Court by taking out a writ petition, being W.P. No.13650 (W) of 2018. However, during pendency of the writ petition, a Memo. dated 7th August, 2008 was issued rejecting the petitioner's prayer for compassionate appointment. The Petitioner assailed the Memo.*vide* dated 7th August, 2018, in an another writ petition being W.P. No.25640 of 2018. By an order dated 9th October, 2020, a co-ordinate Bench of this Court quashed the order dated 7th August, 2018 and directed the authority concerned to grant an opportunity of hearing to the petitioner and to pass a reasoned order on the issue keeping in mind the ratio laid down in the case of *The State of West Bengal & Ors. Vs. Purnima Das & Ors.*, reported in (2017) 4 CHN 362.

In deference to the order dated 9th October, 2020 passed in W. P. No.25640 of 2018 an opportunity of hearing was afforded to the petitioner and a reasoned order was passed on 18th November, 2020 and that reasoned order has been impugned in this writ petition.

Mr. Basu, learned advocate appearing for the petitioner submits that the authority concerned has passed the order impugned on the basis of some

presumption and assumption. Placing reliance upon the judgment delivered by a larger Bench of this court in case of *The State of West Bengal & Ors. Vs. Purnima Das & Ors. (supra)* he submits that the larger Bench of this Court has decided the issue that the married daughter is entitled to get appointment on compassionate ground. He submits that the said order of the larger Bench was challenged in a Special Leave Petition (SLP) before the Hon'ble Supreme Court of India but the SLP was dismissed.

According to Mr. Basu, the order passed by the authority concerned should be set aside and a direction should be given upon the authority concerned to reconsider the case of appointment of the petitioner on compassionate ground.

Per contra, Mr. Koley, learned advocate appearing for the respondents strenuously contends that to get an appointment on compassionate ground a married daughter of the deceased employee is to prove that she was and is dependent upon the deceased employee. In support of his such contention, he also laid immense emphasis on the judgment delivered in case of *The State of West Bengal & Ors. Vs. Purnima Das & Ors. (supra)*. He submits that during course of hearing before the authority concerned the petitioner by making a written

declaration admitted that she has been leading a peaceful conjugal life with her husband and she has been living in her matrimonial house and he asserts that the petitioner was not at all dependent upon the deceased employee and hence, for this reason, the authority concerned has rightly turned down the petitioner's prayer for compassionate appointment. He submits that if the petitioner is given appointment, the scheme and / or object of giving compassionate appointment will be frustrated.

Heard the learned advocates. Perused the materials on record.

During course of hearing before the authority concerned, it came out that the petitioner knotted matrimonial chord with her husband in 1998 and since the date of her marriage she started living in her matrimonial house. By placing one written declaration, she stated that she has been leading her nuptial life with her husband peacefully. The deceased employee died leaving behind his widow, a son and a married daughter, the petitioner. The widow has been drawing family pension, the son of the deceased, namely, Babul Saha is employed as a Nirman Sahayak under the Government of West Bengal and he drew his gross salary of Rs.24,460/- as on 25th May, 2012 and family of the deceased has

received all terminal benefits including death gratuity. The writ petitioner happens to be the married daughter of the deceased employee. She is still leading a happy married life with her husband in her matrimonial house. Her husband is owner of one country liquor shop but subsequently, to secure the job she made a mere stray statement that her brother-in-law snatched away such shop from her husband and now, her husband has been earning his livelihood by rendering his service as a cook in a lodge but no document has been produced to substantiate such claim.

The purpose and object to introduce the scheme of compassionate appointment is to save the family which has suddenly plunged into penury due to sudden demise of a government employee, who was the sole bread earner of family. It is worthwhile to note that as a rule, appointment in public services should be made strictly on the basis of open advertisement. Appointment on compassion ground is not the rule but an exception and such exception is carved out only when an employee dies in harness leaving his family in extreme financial hardship and without any means of livelihood. In such case, out of pure humanitarian consideration taking into consideration the fact that unless some source of

livelihood is provided, the family would not be able to make both ends meet. Employment on compassionate ground is given to one of the dependents of the deceased who is otherwise eligible for such employment. The mere death of an employee in harness does not entitle his family to such source of livelihood.

The proposition of law expounded in the judgment of *The State of West Bengal –vs- Purnima Das & Ors. (supra)* is that the married daughter who is not looked after by her husband and who has been forced to take shelter in her parental/maternal home and survives on benevolence showered by her father/mother can get the benefit of compassionate appointment.

There are catena of decisions on the proposition that no aspirant has a right to compassionate appointment. It is not right to property. It is not that as her father died in harness, by way of inheritance, she has acquired a right to be appointed on compassionate ground. In a society where many deserved and eligible candidates roam around the office to office, institution to institution to find a job to manage two square meals for their family, it would be iniquitous and/or misplaced sympathy for the court

of equity to direct the respondents to favour the petitioner with compassionate appointment.

Taking stock of the factual situations, resume of chronological events and the above exposition of law on the issue, I have no qualm to hold that the petitioner is not entitled to claim compassionate appointment and the authority concerned did not fall in error in negating the petitioner's claim for such appointment and it is quite vivid and luminescent that the authority concerned has passed reasoned order. Consequently, no interference is called for in the writ petition. As a result, the writ petition is dismissed, however, without any order as to the costs.

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

(Partha Sarathi Chatterjee, J.)