

127 03.02.2023
Sc Ct. no.22

WPA 1420 OF 2023

Sohel Rana Shah

Vs.

The State of West Bengal & Ors.

Mr. Dhananjay Banerjee
Mr. Somnath Adhikary
Mr. Biswajit Sarkar.

...For the Petitioner

Mr. Raja Saha
Mr. Prantik Gorai.

...For the State

Affidavit-of-service, filed in Court today, is taken on record.

The petitioner claimed compassionate appointment. The ***petitioner's mother had died while in service and working as a Group - D staff at Trimohini High Madrasah, District - Murshidabad*** (hereafter the relevant madrasah). The mother died on September 16, 2021. The petitioner submitted an application on November 9, 2022. The petitioner first submitted an application according to the petitioner at page 31 to the writ petition, which is undated. On December 21, 2022 the petitioner made a prayer by way of a representation before the respondent no.3. The same is yet to receive the attention of the State authority. It is pertinent to note that ***Rule 32*** of the ***West Bengal Madrasah Service Commission Recruitment (Selection and Recommendation of Persons for Appointment and Transfer to the Posts of Teacher and Non-Teaching***

Staff) Rules, 2010 provides for compassionate appointment in an appropriate case.

Be that as it may, considering the case made out in the writ petition and the materials on record and after considering the submissions made on behalf of the appearing parties to subserve justice, the **respondent no.3** is directed to consider the representation of the petitioner dated **December 21, 2022, Annexure – P9 to the writ petition** after giving a seven days' prior hearing notice to the petitioner and the respondent nos. 4 and 5 and after hearing them, shall decide the issue with a reasoned order in accordance with law. The respondent no.3 shall communicate the said reasoned order to be passed to the petitioner and the respondent nos. 4 and 5.

The entire exercise as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **eight weeks** from the date of communication of this order. The respondent no.3 then shall communicate the reasoned order to the petitioner and the respondent nos.4 and 5 within a further period of **two weeks** from the date of the reasoned order to be passed.

The petitioner and the relevant madrasah authority shall be at liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no.3.

In the event the decision goes in favour of the petitioner, then the respondent no. 3 shall take all consequential steps in accordance with law to give effect to the said reasoned order.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner in any manner whatsoever.

It is further made clear that this order shall not create any equity or right in favour of the petitioner if the petitioner is not otherwise eligible to receive his claim for compassionate appointment strictly in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms the writ petition, **WPA 1420 of 2023** stands disposed of, without any order as to costs.

(Aniruddha Roy, J.)