

ML-27

WP.ST 14 of 2023

05.06.2023
Court No.5
(AD)

Saikat Maitra
Vs.
The State of West Bengal & Ors.

Mr. Taushid Khan
Mr. Sirsendu Sinha Roy

... for the petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Tapas Kumar Dey

... for the State

The writ petition is directed against an order dated September 27, 2022 passed by the West Bengal Administrative Tribunal rejecting the original application seeking compassionate appointment.

In the facts and circumstances of the present case, the deceased employee died-in-harness on May 19, 1996. The date of birth of the writ petitioner is September 4, 1993. The writ petitioner attained adulthood on September 4, 2011. The writ petitioner applied for compassionate appointment on July 29, 2016. The application for compassionate appointment was rejected by the authorities by the order dated February 9, 2021 citing Notification No.251-Emp dated December 3, 2013 read with Para No.10(aa) of the Notification No.26-Emp. dated March 1, 2016 of the Labour Department.

The fact that, the terms of employment of the deceased employee contained a right of compassionate appointment is not disputed.

As noted above, the rejection is on the ground of delay in applying for compassionate appointment.

The Notification being No.251-Emp. dated December 3, 2013 read with second notification dated March 1, 2016 requires the appointing authority to be circumspect when there is a delay in applying for compassionate appointment.

In the facts and circumstances of the present case, a period in excess of a decade elapsed from the date of death of the deceased till the application for compassionate appointment being made. In fact, a period of about five years elapsed from the date when the writ petitioner became a major. The delay is not attributable to the employer. There is no material placed on record to suggest that there was no other members in the family who could have applied for compassionate appointment upon the death of the deceased employee. Delay in making the application for compassionate appointment remains unexplained. There is no material on record to suggest that the writ petitioner is under any financial crunch.

In such circumstances, we find no material irregularity in the impugned order of the Tribunal requiring an interference.

WP.ST 14 of 2023 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

