

71.
27-03-2023
debajyoti
(Ct. no.25)

WPA 1730 of 2023

**Smt. Duleswari Yadav
Vs.
West Bengal State Electricity Distribution Company
Limited & Ors.**

Mr. Jit Ray,
Mr. Bikash Shaw

... For the Petitioner.

Mr. Supriyo Chattopadhyay

... For the Respondents.

The petitioner's husband died in harness on July 30, 2014, while being employed with West Bengal State Electricity Distribution Company Limited (WBSEDCL). Upon the death of the petitioner's husband, her younger daughter applied for compassionate appointment. Since a "No Objection" was not given by the petitioner's elder daughter in favour of her younger daughter, the application for compassionate appointment could not be considered by WBSEDCL.

Mr. Shaw, learned counsel, appearing on behalf of the petitioner, refers to a Notification dated June 06, 2005, whereby the dependents of an employee, who died in harness, would be eligible for compassionate appointment or a grant of ex gratia payment.

Mr. Chattopadhyay, learned counsel, appearing on behalf of WBSEDCL, submits that the said 2005 Notification was subsequently clarified by a Notification dated June 26, 2007 vide No.89-Emp of the Labour Department. The 2007 Notification clarifies the word "employee". An "employee" would mean only the State Government employee for the

purpose of the Labour Department's Notification dated June 06, 2005.

He further submits that vide Circular dated April 22, 2010, the Board of Directors of WBSEDCL stipulated that the candidates/applicants, who were unsuccessful for compassionate appointment could opt for financial compensation in lieu of employment within one year of there being unsuccessful. He submits that the application for compassionate appointment was made by the younger daughter of the petitioner and not by the petitioner herself.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that since there was a provision of compensation being paid in lieu of compassionate appointment to the unsuccessful candidate, vide Circular No.10/2010 dated April 22, 2010, the representation of the petitioner's second daughter may be considered in accordance with the applicable policies of 2014 (as on the date of the death of the petitioner's husband), if such an application/representation is made by the younger daughter of the petitioner within four weeks from date. In the event an application/representation is made within four weeks from date, the same shall be considered by the respondent no.3 within four weeks from the date of submission of such application as per the applicable policies of 2014.

A reasoned order will be passed and communicated to the petitioner's younger daughter within two weeks thereof.

With the direction aforesaid, **WPA 1730 of 2023** is **disposed of**.

Affidavits not having been called for, the allegations in the writ petition shall be deemed not to have been admitted by the parties.

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

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Lapita Banerji, J.)