

WPA 1222 OF 2020

Md. Nasim

Vs.

The State of West Bengal & Ors.

Mr. Bhagbat Chaudhuri
Mr. Mahbub Asfakul Zinna.

....For the Petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey.

...For the Respondent
Nos. 1, 2 & 5

Mr. Niloy Baran Mandal

...For the Respondent
Nos. 3 & 4.

The previous order speaks for itself.

Today, the writ petition appears under the heading
“For Dismissal”.

The petitioner claims for compassionate appointment. The father of the petitioner was an assistant teacher. The father died-in-harness on March 3, 2011 at **page 17** to the writ petition. The petitioner on July 15, 2012, **Annexure P-41 at page 25** applied for compassionate appointment.

Mr. Bhagbat Chaudhuri, learned counsel appearing for the writ petitioner referring to **Annexure-P7 at page 36** to the writ petition submits that, the claim of the petitioner for compassionate appointment was rejected without assigning any reason.

This is impugned in the instant writ petition.

Mr. Suman Dey, learned counsel appears for the respondent nos. 1, 2 and 5 referring to the said rejection submits that, sufficient reason has supplied.

After considering the rival submissions of the parties and upon perusal of the materials on record and on a scrutiny of the impugned order dated **January 19, 2016, Annexure-P7** at **page 36** to the writ petition it appears to this Court that, the rejection order was made on the basis of a Government Order dated February 15, 2008, but how and why it will apply no such reason has been furnished in detail with the proper calculation since the plea for rejection was really on the basis of an arithmetic calculation.

In view of the above, the said order impugned dated **January 19, 2016, Annexure-P7** at **page 36** to the writ petition stands set aside and quashed.

The respondent no.2 is directed to revisit the issue on the basis of the available records and materials on which the said impugned order dated **January 19, 2016** was passed upon giving a prior notice of hearing of at least seven days to the petitioner and the respondent nos. 5 and 6 and upon giving them an opportunity of hearing on the basis of the available records, as indicated above, the respondent no.2 shall pass a detailed reasoned order in accordance with law.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.2

positively within a period of **six weeks** from the date of communication of this order and the respondent no.2 then shall communicate its reasoned order to the petitioner and the respondent nos. 5 and 6 positively within a **further** period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner and the respondent nos. 5 and 6 shall be at liberty to urge whatever points they wish to urge by referring to whatever records and documents they wish to rely upon before the respondent no.2 **but the same shall not travel beyond the existing materials before the respondent no.2 on the basis whereof the impugned order dated January 19, 2016 was passed.**

In the event the reasoned decision goes in favour of the petitioner, then the respondent nos. 5 and 6 and/or any other appropriate authority shall take all necessary and consequential steps to give effect thereto within **four weeks** from the date of the reasoned order to be communicated to them.

It is made clear that, while considering the issue, the respondent no.2 shall take note of the law settled on the issue that as on the **date of the death** of the deceased employee, i.e. March 3, 2011, the law shall apply.

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

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

On the above terms, **WPA 1222 of 2020** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)