

15.05.2023
Item No.05
Court No.6.
S. De

**F.M.A. 255 of 2023
with
I.A. No. CAN/1/2023**

**Mamtaz Bewa.
Vs
The State of West Bengal & Ors.**

Mrs. Kakali Samajpaty,
Mr. Subhranil Ray,
Ms. Pratima Bhadra (Barman),
...for the appellant.

Affidavit-of-service filed in Court today be kept with the records. In spite of service, nobody appears for the respondents.

A judgment and order dated December 12, 2022, whereby the appellant's writ petition being WPA 25851 of 2022, was disposed of, is under challenge in this appeal, at the instance of the writ petitioner.

The appellant approached the learned Single Judge saying that her husband was a Group-D staff of Ballygrum Gram Panchayat under Block Development Officer, Bhagwangola-II Block, Murshidabad, who died in-harness on December 3, 2013. The appellant made two representations, one on June 23, 2015 and the other on August 19, 2015, addressed to the concerned Block Development Officer for release of death benefits and family pension as well as for

granting her compassionate appointment in the Died-in-Harness Category.

The learned Judge noted that a Co-ordinate Bench had directed the Block Development Officer, Bhagwangola-II Block, Murshidabad, to consider the representations of the writ petitioner. Accordingly, the learned Judge directed the said Block Development Officer to intimate to the writ petitioner the fate of her representations within eight weeks from the date of communication of the order of the learned Judge. The learned Judge also directed that a copy of the writ petition along with a server copy of the order of the learned Judge be served upon the said Block Development Officer.

However, prior to issuing such direction, in the impugned order, the learned Judge made the following observations :-

“Compassionate appointment is given to a dependant of a deceased employee in order to enable the family to tide over immediate financial crisis. In this case, almost 10 years have passed since the husband of the petitioner died. It also appears that the Pension Payment Order was issued.

Compassionate appointment can also be granted strictly in accordance with the scheme applicable. This is an alternative mode of employment given to

the dependent of an employee who died during his employment.”

The appellant is aggrieved by the said observations. She says that the learned Judge has practically decided that the appellant is not entitled to compassionate appointment. Nothing therefore remains for the Block Development Officer to decide.

We think that the appellant has a point. It is not that the appellant did not apply for compassionate appointment within the time period prescribed by the applicable rules. She made two representations as noted above within two years from the date of death of her husband. The concerned authority has been sitting tight on such representations without taking a decision thereon. For this the appellant cannot be blamed or penalized.

In view of the aforesaid, we direct the Block Development Officer, Bhagwangola-II Block, Murshidabad, to take a reasoned decision on the two representations of the appellant/writ petitioner which are annexed to the writ petition, as regards granting compassionate appointment to the appellant/writ petitioner, in accordance with law and the applicable rules and regulations, within a period of eight weeks from the date of communication of this order along with a copy of the writ petition to the said Block Development Officer, after granting an opportunity of

hearing to the appellant or her authorized representative. We make it clear that the Block Development Officer shall pass a reasoned order uninfluenced by any observation made by the learned Judge in the order impugned in this appeal. We are sure that if the Block Development Officer finds that the appellant has made an application for compassionate appointment in accordance with the applicable rules and within the prescribed time period, the Block Development Officer shall pass appropriate orders.

Since we have not called for affidavits, the allegations contained in the application are deemed not to be admitted by the respondents.

Accordingly, FMA 255 of 2023 is disposed of along with the application being I.A. No. CAN 1 of 2023.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)