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28.3.2023
S.D.

W.P.A. 3618 of 2023

**Ishita Baisya Moulick
Vs.
Union of India & Ors.**

Mr. Sanjib Bandyopadhyay
Mr. Alokasis Bandyopadhyay
Mr. Subhasish Datta

... For the Petitioner

Mr. Tapan Kumar Mukherjee, A.G.P.
Ms. Debdooti Dutta

..For the State

Ms. Rumana Sahin

...For the U.O.I.

The petitioner's father worked under the District Programme Officer (ICDS), Khoyrasole, Birbhum at the time of his death on January 30, 2007. A prayer for compassionate appointment was made by her mother. The petitioner's mother was called to appear for medical examination for appointment as Group-"D" employee by the Director of Social Welfare, West Bengal on March 29, 2010.

Thereafter, the petitioner's mother on April 19, 2010 made a representation that in the event the petitioner's mother was not considered for appointment as a Group-"C" employee, the prayer for compassionate appointment should

be considered in favour of her daughter upon the daughter/petitioner reaching 18 years of age. The petitioner was a minor on April 19, 2010.

Mr. Bandyopadhyay, learned counsel appearing on behalf of the petitioner submits that the petitioner has reached the age of majority and, therefore, she should be considered for appointment on compassionate ground pursuant to her representations dated March 16, 2022 and December 22, 2022.

Mr. Mukherjee, learned Additional Government Pleader appearing on behalf of the State respondents submits that the writ petition is not maintainable since an employment has been sought for under the Directorate of Social Welfare, Government of West Bengal. Therefore, the appropriate forum for adjudication of the dispute would be the Tribunal set up under the Administrative Tribunals Act, 1985.

He further submits that even on merits, the prayer of the petitioner cannot be entertained since the petitioner's mother was offered employment in Group-"D" post in 2010, which she refused to accept. There was no provision for giving appointment to the petitioner upon reaching the age of majority.

Considering the rival submissions of the parties and the materials placed on record, this Court without going into the issue of maintainability finds that the petitioner's mother was given an offer of appointment subject to being considered **fit** in a medical examination by a communication dated March 29, 2010 issued by the Director of Social Welfare, Government of West Bengal. The petitioner's mother instead of accepting such appointment requested for being appointed as a Group-*"C"* employee. Alternatively, she requested for appointment of her daughter/the petitioner upon reaching the age of 18 years. The prayer for compassionate appointment is granted when the dependants of the deceased employee suffer or likely to suffer immediate financial constraints upon the death of the breadwinner of the family. Compassionate appointment is not an entitlement and had the petitioner or her mother suffered from financial crisis, the petitioner's mother could not have prayed for appointment as a Group-*"C"* employee. Alternatively, she could not have prayed for appointment of her daughter upon reaching the age of majority. The very prayer of the petitioner's mother shows that the family was not in immediate financial crisis upon the death of the deceased employee. The view of this Court finds

support in the decision of the Apex Court in **N.C. Santosh vs. State of Karnataka & Ors.** reported in (2010) 7 SCC 617.

In the light of the discussions above, **W.P.A. 3618 of 2023** is **dismissed**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained in the petition are deemed not to have been admitted by the parties.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)