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M/L
16.08.2023
Ct. No. 11
rrc

MAT 284 of 2021
with
IA No. CAN 1 of 2021
with
IA No. CAN 2 of 2021

(Jayashree Tewary Vs. Union of India & Ors.)

Mr. Shuvra Prakash Lahiri
Mr. Kunal Ganguly
Ms. Jenifar Alam Megha
..... For the appellant

Mr. Sanajit Kumar Ghosh
..... For the respondents

Re: CAN 1 of 2021

Upon hearing the learned advocates appearing for the respective parties and upon considering the averments made in the application for condonation of delay, we are satisfied with the explanation given towards the delay in preferring the present appeal.

In view thereof, the delay in preferring the appeal is condoned and the application being **CAN 1 of 2021** is disposed of.

Re: MAT 284 of 2021
with
CAN 2 of 2021

With the consent of the parties, the appeal and the stay application being CAN 2 of 2021 are taken up for final hearing.

The present appeal has been preferred challenging the order dated 12th January, 2021 passed by the learned single Judge in a writ petition being WPA 11283 of 2020. The subject matter of challenge in the writ

petition was an order dated 8th September, 2020 by which the writ petitioner's application for grant of compassionate appointment was rejected.

Mr. Lahiri, learned advocate appearing for the writ petitioner/appellant submits that the appellant's father was suffering from the dreaded disease of cancer to which he ultimately succumbed on 19th November, 2019. The appellant, though married, was totally dependent upon the deceased's income and she along with her unemployed husband were residing with the deceased. Due to the sudden loss of the sole bread earner, the appellant's mother submitted an application in the prescribed proforma for grant of compassionate appointment in favour of the appellant. A declaration along with an application seeking compassionate appointment was also submitted by the appellant.

Mr. Lahiri argues that the order impugned would reveal that the appellant's claim was primarily rejected on the ground that the deceased family was not suffering from any financial stringency as the deceased's widow had received a substantial amount towards terminal benefits of the deceased. The receipt of terminal benefits cannot be a ground for rejection of a claim towards compassionate appointment. In support of such contention, reliance has been placed upon the recruitment rules pertaining to compassionate amount, as annexed at page – 50 of the stay application.

As regards the ground that the deceased's son is already employed, Mr. Lahiri submits that such fact has not been suppressed by the appellant. However, the son was not residing with his mother and he does not look after the needs of the appellant. In view thereof, the family was suffering from extreme financial hardship. Such fact has not been taken into consideration while rejecting the appellant's claim.

Mr. Lahiri further argues that the learned Single Judge glossed over the issues, as argued by the appellant and returned no finding on the said issues and such infirmity on the fact of the records warrants interference in appeal.

Per contra, Mr. Ghosh, learned advocate appearing for the respondents submits that the appellant's claim was rejected since the deceased's family was not suffering from acute financial distress. The widow was residing in her own house and her son was employed under the West Bengal police. The declaration of the appellant at page – 38 of the stay application would reveal that the appellant's brother, who was employed, was residing along with his mother in the same premises.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

A perusal of the order impugned reveals that the learned Single Judge rejected the appellant's claim

placing reliance upon a judgment delivered in the case of *State Bank of India Vs. Surya Narain Tripathi*, reported in 2014 (15) SCC 739 wherein it has *inter alia* been observed that '*if an employer points out that the financial arrangement made for the family subsequent to the death of the employee is adequate, the members of the family cannot insist that one of them ought to be provided a comparable appointment*'. The learned Judge took into consideration the fact that the deceased's son was already employed and arrived at a finding that the family of the deceased employee was not in penury.

In the writ petition, there is no specific pleading as regards the date on which the appellant's brother got employment and as to whether he is residing separately.

The object of compassionate appointment is to protect the dependents of the deceased and to mitigate the hardships of the family members. The order impugned in the writ petition reveals that the appellant's prayer was turned down not on the sole ground that the terminal benefits were received by the widow. The order records that the appellant's father expired only about 13 months prior to normal superannuation and that his widow was having her own house and her son was also in Government employment. The said order is also not contrary to the recruitment rules, upon which reliance has been placed on behalf of the appellant.

The learned Single Judge, upon dealing with all the factual issues arrived at specific findings and we do not find any error in the same. The impugned order also does not suffer from any substantial failure of justice or any manifest injustice warranting interference in the present appeal.

Accordingly, no interference is called for in the present appeal.

The appeal being **MAT 284 of 2021** and the connected application being **CAN 2 of 2021** are, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)