

Dd 06 27.07.2023

WP.ST 28 of 2022
with
IA NO : CAN 1 of 2023

Biswajit Debnath & Anr.
Vs.
The State of West Bengal & Ors.

Syed Nasim Aejaaz, Advocate
... ...*For the petitioners*

Mr. Tapan Kumar Mukherjee, AGP
Ms. Tuli Sinha, Advocates
... ... *For the State*

In Re : IA NO : CAN 1 of 2023

CAN 1 of 2023 is an application for restoration.

In view of the contents of the application for restoration and for the ends of justice, we recall the order of dismissal dated July 14, 2023 passed in WP.ST 28 of 2022.

CAN 1 of 2023 is **allowed**. WP.ST 28 of 2022 is restored to its original file and number.

The writ petitioners assail an order dated February 17, 2022 passed in OA 29 of 2015.

Learned advocate appearing for the petitioners submits that the writ petitioner no. 2 was discriminated against. Other similarly situated and circumstanced persons were granted compassionate appointment. The wife of the writ petitioner no. 1 was working as Work Charged employee. On the death of other Work Charged employees, compassionate appointments were granted.

Learned senior advocate for the State submits that, Work Charged employees are not entitled to any appointment on compassionate ground. There does not subsist any Government notification regarding that.

We called upon the learned advocate appearing for the writ petitioners to place before us the service Rule governing the Work Charged employee and satisfy us whether there exists any service Rule for grant of compassionate appoint or not.

Learned advocate for the writ petitioners, in his usual fairness submits that, service Rule does not provide for grant of compassionate appointment. However, he stressed the fact that since, other Work Charged employees were extended the facilities of compassionate appointment upon their death in harness, same facility should be extended to the writ petitioner no. 2.

Grant of compassionate appointment is dependent upon at least two criteria being fulfilled. The first of such criterion is that, the service condition of the deceased employee must contain a provision for grant of compassionate appointment. The other condition, of course, is the fulfilment of the prescribed financial criterion.

In the facts of the present case, the first ground is not fulfilled. There does not exist any Rule regarding grant of compassionate appointment in respect of Work Charged employee.

The writ petitioner is not entitled to negative equality. Assuming that, dependents of other Work Charged employee, upon death of the Work Charged employee, during service was extended the facility compassionate appointment, the same correspondingly does not vest any right to the petitioner no. 2 herein in

absence of any service rule allowing grant of compassionate appointment.

In such circumstances, we find no merit in the present writ petition.

WP.ST 28 of 2022 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)