

03.04.2023
DL-54
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 6713 of 2023

Eklakh Khan
Vs.
The State of West Bengal & Ors.

Mr. Rajdeep Bhattacharya,
Mr. Sanjib Sankar Mazumder
....for the petitioner.

Ms. Chaitali Bhattacharya
....for the State.

Mr. Naba Kumar Das,
Mr. Pratik Bandhu Banerjee
....for KMDA.

The petitioner has prayed for consideration of his prayer for compassionate appointment in the present writ petition. The petitioner's father died-in-harness on September 15, 2009 holding the post of Lorry Mazdoor with the Kolkata Improvement Trust (KIT). Subsequently, KIT merged with Kolkata Metropolitan Development Authority (KMDA).

Mr. Bhattacharya, learned counsel appearing on behalf of the petitioner submits that the petitioner was a minor when his father died and upon attaining majority he has prayed for appointment on compassionate ground.

Ms. Bhattacharya, learned senior Government Advocate appearing on behalf of the State submits

that there was no scheme for appointment on compassionate ground that was applicable at the time of death of the petitioner's father. Furthermore, the petitioner was a minor during the time of death of his father.

Considering the submissions of the parties and the materials placed on record, this Court finds that the petitioner's father died-in-harness in 2009 and the application for compassionate appointment was made in 2015 by his mother upon the petitioner attaining majority. In the said representation, the age of the petitioner was declared to be 21 years. Therefore, after three years of attaining majority the first representation was made by the petitioner's mother.

It is well-settled that any appointment on compassionate ground is made to give immediate financial assistance to the family to tide over the financial constraints/crisis that the dependents of a deceased employee may face upon the death of the breadwinner of the family. The scheme/guidelines or policy that is applicable for consideration of such prayer is the policy/scheme that is prevalent at the time of death of the deceased employee. The view of this Court finds support in a three Judge Bench

judgment passed by the Apex Court reported in (2020) 10 SCC 496 (**State of Madhya Pradesh & Ors. vs. Amit Shrivastava**) and also in a judgment of the Apex Court reported in (2020) 7 SCC 617 (**N. C. Santosh vs. State of Karnataka**).

Since there was no applicable scheme/policy at the time of death of the deceased employee, the prayer for compassionate appointment could not be considered by the authorities. Furthermore, the petitioner was a minor at the time death of his father and the application for compassionate appointment has been made at least six years after his death.

In the light of the discussions above, **WPA 6713 of 2023 is dismissed.**

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)

