

23.08.2023
SL No.34
Court No.8
(gc)

**MAT 559 of 2022
CAN 1 of 2022**

**Tajammal Hoque
Vs.
The State of West Bengal & Ors.**

Mr. Kalyan Kumar Chakraborty,
Mr. Kasinath Bhattacharya,
... for the Appellant.

Mr. Biswabrata Basu Mallick, Ld. A.G.P.,
... for the D.P.S.C.,Uttar Dinajpur.

1. This appeal is arising out of an order dated 9th February, 2022 passed by the learned Single Judge in a writ petition filed for compassionate appointment. The father of the appellant was a Primary School Teacher, who died in harness on 23rd January, 1978. The President of the Ad-hoc Committee, District School Board, West Dinajpur recommended the appellant in the year of 1982 for being considered for appointment as a ward of teacher died in harness as a special case.
2. It appears that between 1984 till 2013, the writ petitioner did not take any steps for consideration of his case for compassionate appointment. In the meantime, on 7th February, 2013, the prayer of petitioner for compassionate appointment was rejected.

This time, he filed a writ petition being W.P. No.9035(W) of 2013 in which an order was passed directing the Chairman, District Primary School Council, Uttar Dinajpur to consider the matter afresh. On the basis of the aforesaid communication, the Chairman, District Primary School Council, Uttar Dinajpur has passed the impugned order dated 30th July, 2015. The writ petition was filed almost six years after the said order was passed.

3. Although, we may not agree with the reasoning that the application is liable to be rejected as it was not made within the period of two years from the date of death, as admittedly the petitioner attained majority in 1984 and, prima facie, it appears that the financial condition of his family was not sound, however, we cannot ignore the long delay in approaching the Court for the case of the petitioner being considered for compassionate appointment. The said long delay has diluted the immediate need for appointment and tide over the financial stringency. Appointment on compassionate

ground cannot be claimed as a matter of right as observed rightly by the learned Single Judge. The same is offered only for tiding over the sudden financial crisis which the family faces on the death of the bread earner. Compassionate appointment is granted only upon relaxation of the regular recruitment rules for appointment purely on the ground of compassionate and sympathy thereby diluting the rigid course required to be adopted for regular appointment. It is a rule made to facilitate an appointment to a needy. Considerable time has passed between 1978 till 2022 and at this stage there is no material on the basis of which the Court can consider the case of the petitioner for compassionate appointment. The order of rejection, 2015 was challenged only after six years.

4. On such consideration, we are not inclined to interfere with the order passed by the learned Single Judge.
5. Accordingly, the appeal and the application stand dismissed.
6. However, there shall be no order as to costs.

7. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)