

Item No.91

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

13.02.2023
Ct-24

WPA 6658 of 2022
Sandip Chakraborty & Anr.

v.

The Kolkata Municipal Corporation & Ors.

Mr. Rahul Karmakar
Mr. Deobrat Upadhyay
Ms. Munmun Mazumder
... for the petitioners.

Mr. Alope Kumar Ghosh
Mr. Arijit Dey
... for KMC.

The petitioner no. 1 is the son and the petitioner no. 2 is the widow of one Subrata Chakraborty who was an employee of the Kolkata Municipal Corporation. The employee died-in-harness on June 5, 2011. The widow applied in October 2011 for compassionate appointment of her son who was a minor at that point of time.

The son of the employee attained majority on November 18, 2013 and after attaining majority the son applied for providing compassionate appointment to him.

The prayer of the widow for providing appointment in favour of her son was considered and rejected. The rejection was communicated to the widow in September 2015 clearly mentioning that the job cannot be preserved for the minor son of the deceased employee as major dependant family member was available in the family of the ex-employee. The widow was informed that she may apply for the job in her favour if she wishes so.

It appears that after the communication of the order of rejection, no prayer or application was made by the widow seeking employment. The present writ petition has been filed jointly by the son and the widow seeking consideration of the application for appointment in favour of the son.

Reliance has been placed on the circular of the Labour Department dated October 17, 1977 being No. 5120 (60) LW.

It has been submitted that as per the aforesaid circular, the employing authorities are competent to give appointment to the son of a Government servant who died-in-harness leaving his family in immediate need of assistance.

Learned advocate representing the Kolkata Municipal Corporation submits that the circular of the Labour Department, as relied upon by the petitioners, will not be applicable in this case as the Kolkata Municipal Corporation has a different policy for providing appointment on compassionate ground.

It has been submitted that liberty was given to the widow to seek employment way back in 2015. No application was forwarded by the widow. The order of rejection was not challenged either. Prayer has been made for dismissal of the writ petition.

I have heard the submissions made on behalf of both the parties. It appears that the employee died-in-harness in June 2011 i.e. more than eleven years back.

The prayer made by the widow for providing compassionate appointment of the son stood rejected in the year 2015. Neither the son nor the widow challenged

the said order of rejection. After a lapse of more than six years, the present writ petition has been filed with a prayer for seeking compassionate appointment of the son.

The issue of providing compassionate appointment to the family members of the deceased has been well settled by several pronouncements of the Hon'ble Supreme Court.

The very object and purpose of providing compassionate appointment is to enable the family of the deceased to tide over the immediate financial crisis faced on the death of the bread-earner. There is no scope for reservation of vacancy in favour of a minor who did not have any right to seek appointment on the day the employee died-in-harness. The employer intimated the widow that she may apply for compassionate appointment, but the widow thought it fit not to apply for the same.

At such a delayed point of time, there is no reason to show any compassion to the members of the deceased family. The urgency in the matter for providing compassionate appointment is no longer available.

In view of the above, no relief can be granted in favour of the petitioners in the present writ petition.

The writ petition fails and is hereby dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

Sh

(Amrita Sinha, J.)