

09.08.2023  
SL No.45  
Court No.8  
(gc)

**FMA 645 of 2022  
CAN 1 of 2022**

**Anindita Mandal  
Vs.  
The State of West Bengal & Ors.**

Mr. Anjan Bhattacharya,  
Ms. Anita Shaw  
...for the Appellant.  
Mr. Arindam Chattopadhyay,  
Ms. Lipika Chatterjee  
...for the State.

1. The decision of the District Inspector of Schools (S.E.), Malda dated 22<sup>nd</sup> March, 2018 is the subject matter of challenge in the writ petition.
2. The learned Single Judge has dismissed the writ application on the ground that the mother of the petitioner is a teacher of a school and the purpose of giving compassionate appointment is to tie over immediate crisis faced by the family members for untimely death of the bread earner is no more existing.
3. The father of the minor was a teacher in a Higher Secondary School. It appears that on 15<sup>th</sup> February, 2008, an application was made to the Headmaster of the School for consideration of appointment of one of the children in a suitable post in the die-in-harness category. It appears that the application for employment was made to the

District Inspector of Schools on 11<sup>th</sup> November, 2016 and it was rejected on the ground that it was made beyond two years from the death of the father of the applicant and her case could only be considered after she attained 18 years of age. The Authority has not considered the notification prior thereto as applicable at the time when the father of the applicant died. The notification applied was of 9<sup>th</sup> July, 2009. The wife of the deceased working in a primary school which was under DPSC with effect from 25<sup>th</sup> January, 2001 cannot be a valid consideration to arrive at a finding that the family is not facing any financial hardship. Even the notification of July, 2009 would not support the finding.

4. Moreover, even if an application were filed within the period of two years from the date of death of the deceased, no appointment could have been made to the applicant as she was minor at the relevant point of time and her application can only be considered after she became major.
5. Under such circumstances, we set aside the order of the learned Single Judge and direct the District Inspector of Schools (S.E.), Malda to consider the application in accordance with the relevant notification

applicable at the time of death of the deceased.

6. The learned Counsel for the appellant has relied upon the Circular issued by the Government of West Bengal, Education Department, Primary Branch No.457-Edn. (P)/4A-50/83 dated 12<sup>th</sup> October, 1987 and submitted that the said circular would be the relevant circular.
7. However, we are not entering into the said matter. It is for the D.I. to decide the matter afresh within six weeks.
8. The D.I. certainly shall take into consideration the financial need keeping in mind that it is a relevant factor for deciding the appointment on compassionate ground.
9. The appeal is allowed.
10. Accordingly, the appeal and the connected application stand disposed of.
11. However, there shall be no order as to costs.
12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

**(Uday Kumar, J.)**

**(Soumen Sen, J.)**