

Court No. 22
19.5.2023
(Item No. 11)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 8037 of 2023

Rajesh Bauri
VS
The State of West Bengal & Ors.

Mr. Rudranil De
Mr. Aiswaryya Mukherjee
... for the petitioner
Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey
..... for the State
Mr. Monish Sen
Ms. Oisani Mukherjee
.... For respondent Nos. 3 & 4

Two affidavits of service filed in Court today,
are taken on record.

The petitioner claimed that his father was a
Library Peon at **Nistarini College, Purulia**. The
father of the petitioner **died-in-harness** on **September**
18, 2010.

Referring to **Annexure P-5** at **page 18** to the
writ petition, Mr. Rudranil De, learned counsel
appearing for the petitioner submitted that, the
petitioner being the son of the deceased employee
applied for compassionate appointment. The College
Authority after considering the case of the petitioner
sent its consent before the respondent No. 2 on
November 11, 2011, Annexure P-6 at **page 21** to the
writ petition.

The petitioner contended that, the authority had not taken any decision on the said recommendation of the College.

Mr. Monish Sen, learned counsel appeared for respondent Nos. 3 and 4, the relevant College Authority.

Mr. Bhaskar Prasad Vaisya, learned Additional Government Pleader appeared for respondent Nos. 1 and 2. He submitted that, there is no scheme prevailing for compassionate appointment in the relevant College. He submitted that, the compassionate appointment is a benevolent scheme introduced by the State and in absence of such scheme there cannot be any question of appointment on compassionate ground.

Considering the submissions made on behalf of the parties and on perusal of the materials on record, to sub-serve justice, the respondent No. 2 is directed to take a reasoned decision on the recommendation of the College dated **November 11, 2011, Annexure P-6** at **page 21** to the writ petition upon giving at least seven days prior hearing notice to the petitioner and the respondent No. 4 and then after giving them an opportunity of hearing since the matter is of 2011, shall pass its reasoned decision in accordance with law.

The entire exercise as directed above shall be carried out and completed by the respondent No. 2 positively within a period of six weeks from the date of communication of this order. The respondent No. 2 then shall communicate its reasoned order to the petitioner and the respondent Nos. 3 and 4 within a further period of two weeks from the date of the said reasoned order to be passed.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

It is made clear that, this Court has not gone into the merits of the submissions of the appearing parties as recorded above. The petitioner and the relevant College Authority shall be at liberty to urge whatever points they wish to urge by relying upon whatever documents and records before the respondent No. 2. The respondent No. 2 while taking a decision must consider whether any scheme for compassionate appointment was prevailing on the issue.

It is made clear that, this order shall not create any equity or right in favour of the petitioner if the petitioner is not eligible to receive his claim strictly in accordance with law.

In the event, the reasoned decision goes in favour of the petitioner in law then the relevant

College Authority shall give effect to the said reasoned decision positively within a period of three weeks from the date of communication of the said reasoned decision subject to the necessary formalities being carried out by the respondent No. 2.

On the above terms this writ petition being **WPA 8037 of 2023** stands disposed of.

There shall, however, be no order as to costs.

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

(Aniruddha Roy, J.)