

04 05.04.2023
rkd Ct.15

W.P.A. 7205 of 2018

Sutapa Chakraborty

-vs-

The State of West Bengal & Ors.

Mr. Sekhar Mustaphi

....for the petitioner.

Mr. Pinaki Dhole,

Mr. S. P. Lahiri

.... For the State.

In the writ petition the decision of the District Inspector of Schools (S.E.), Birbhum being the respondent no.3 is under challenge whereby prayer of the petitioner for grant of compassionate appointment has been rejected. The decision of the respondent no.3 is contained in Memo dated 17th April, 2018. Such decision has been taken by the respondent no.3 in terms of the order passed by a coordinate Bench on 19th January, 2018 on writ petition being WPA 373 of 2018. Vide order dated 19th January, 2018 the coordinate Bench directed the respondent no.3 to take decision in accordance with law on prayer of the petitioner for appointment on compassionate ground.

It has been submitted by the learned advocate for the petitioner that while considering the financial hardship of the family of the petitioner the respondent no.3 wrongly took into

consideration monthly income of the brother of the petitioner who is staying separately. Accordingly to the petitioner the monthly income of the petitioner which she is earning being para teacher of another school and family pension of the mother of the petitioner due to death of the deceased teacher ought to have taken into consideration excluding the salary of the brother of the petitioner who is a teacher in another school. Therefore according to the petitioner the decision of the respondent no.3 is erroneous and the same needs to be set aside.

Mr. Lahiri, learned advocate representing the State respondents submits that whether the brother of the petitioner is staying separately or not is a disputed question of fact and the same may not be gone into by this Court while exercising writ jurisdiction under Article 226 of the Constitution of India.

In addition thereto it has also been submitted that father of the petitioner died-in-harness on 6th April, 2007 whereas representation was made by the petitioner for granting compassionate appointment on 9th June, 2017, approximately ten years after the death of the father of the petitioner. Therefore it is contended on behalf of the State respondents that on the point of

delay in approaching the concerned State respondents the petition may not survive.

Having heard the learned advocates representing the parties and on perusal of the impugned decision of the respondent no.3 dated 17th April, 2018 it appears that family of the petitioner consists of three members – widow, petitioner being the daughter of the deceased teacher and the brother of the petitioner. All the three members are having monthly income as it emanates from the impugned order of the respondent no.3 dated 17th April, 2018. Petitioner herself is a para teacher drawing salary @ Rs. 3,000/- per month and the mother of the petitioner is also drawing family pension @ Rs. 4,463/- per month whereas brother of the petitioner being the teacher is drawing salary @ Rs. 11,679/- per month. The total income of the family of the petitioner has been calculated as Rs.19,142/- per month.

The question arises whether the monthly income of the brother of the petitioner is to be excluded while calculating the family income of the petitioner. Though statement of the petitioner has been made in the writ petition that brother is staying separately but in this regard this Court

accepts the contention of the State respondents that whether the brother is staying separately or not is a disputed question of fact and the same cannot be gone into by this Court while deciding the validity of the order passed by the respondent no.3.

In addition thereto, it appears from the chronological facts that after the death of the father of the petitioner on 6th April, 2007 based on the resolution of the school authority the respondent no.3 vide memo dated 17th September, 2007 sought for necessary documents from the mother of the petitioner and the resolution of the Managing Committee of the said school authority dated 29th October, 2007 refers to an application by the mother of the petitioner being the wife of the deceased teacher for grant of compassionate appointment. At that point of time petitioner being the daughter of the deceased teacher did not lay any claim for grant of compassionate appointment. The first representation was made by the petitioner on 9th June, 2017 which is approximately ten years after the request was made by the respondent no.3 to submit credentials upon meeting him on 28th September, 2007.

It is well settled in the matter of granting

compassionate appointment that such exceptional benefit is accorded to the member of the deceased employee to tide over immediate financial crisis. In the present case father of the petitioner died on 6th April, 2007 and when the process was not initiated by the respondent no.3 after calling the member of the family of the deceased teacher to submit documents on 28th September, 2007 petitioner sat tight over the matter for a period of nearly ten years.

In the aforesaid conspectus, this Court does not find any merit in the writ petition and accordingly the same stands dismissed.

There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)