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13.10.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 11780 of 2023

**Resma Madhai
-versus
The State of West Bengal & Ors.**

**Mr. Balai Lal Sahoo,
Mr. Sankha Prasad Roy.
...For the Petitioner.**

**Mr. Avishek Prasad.
...For the State.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner seeks compassionate appointment under the Contai Municipality.

Admittedly, as on date there is no scheme pursuant to which the application for compassionate appointment may be considered.

Petitioner relies upon an order dated 16th June, 2023 passed by the Hon'ble Division Bench of this Court in F.M.A. 616 of 2022 with IA CAN 2 of 2021 (Raju Rabi Das –Vs- The State of West Bengal & Ors) wherein the Court directed that if in future any scheme for compassionate appointment is framed by the competent authority, the appellant may renew his prayer for compassionate appointment.

The very purpose for providing compassionate appointment is to provide immediate relief to the family of the deceased employee. Without a scheme in place, the prayer of the petitioner seeking compassionate appointment cannot be considered.

The direction passed by the Hon'ble Division Bench in *Raju Rabi Das* (supra) implies that retrospective effect may be given to a scheme which is not in existence.

I am of the opinion that such a direction will be contrary to the settled principles of law as the very purpose of providing compassionate appointment will be frustrated if there is delay in making application. It is absolutely uncertain as to whether the scheme for compassionate appointment will ever be formulated in future or not. Permitting the petitioner to file application for obtaining job on compassionate ground may give rise to legitimate expectation for getting the job. The same may not be proper.

However, in the event a scheme is formulated which permits filing of application and consideration of the same with retrospective effect then, it will be open for the petitioner to renew his prayer for compassionate appointment.

The writ petition stands disposed of.

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

(Amrita Sinha, J.)