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27.02.2023
(sanjay)
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11466 of 2022

Gopal Das
Vs.
The State of West Bengal & Ors.

Mr. Mukteswar Maity,
Mr. Diptyendu K. Pal For the petitioner.

Mr. Tapan Kumar Mukherjee,
Ms. Tuli Sinha ... For the State.

By an order dated February 15, 2022 passed by a Co-ordinate Bench of this Court in WPA 130 of 2022 the respondent authorities were directed to consider the representation of the petitioner dated November 27, 2018 for compassionate appointment in place and stead of his father.

The petitioner's father was an employee of the Irrigation & Waterways Directorate, Government of West Bengal. By the impugned order dated May 5, 2022, the Chief Engineer, Irrigation & Waterways Directorate/ the respondent no.2 rejected the prayer of the petitioner on two grounds. The petitioner's prayer was rejected since he did not submit the prescribed proforma for compassionate appointment within six months from the date of death of the deceased employee and also that the application of the petitioner dated November 27, 2018 was not in proper form.

This Court finds that since the mother of the petitioner made an application for compassionate appointment initially and the same was rejected and thereupon the petitioner made an application and the same was directed to be considered by the Coordinate Bench by the respondent authorities. Therefore, no rejection can be made on the ground that the petitioner failed to make an application within six months in the prescribed proforma from the date of death of the deceased employee.

Since the only ground agitated by the respondent authorities is that the application has not been made by way of prescribed proforma, this Court is of the view that it is only a procedural defect on the part of the petitioner.

In the light discussions above, this Court directs that in the event the petitioner makes an application in the prescribed proforma within one month from the date of this order the same shall be considered by the respondent authorities/the respondent no.2 within two months from the date of filing of the application/proforma. The reasoned order is to be passed and communicated to the petitioner within two weeks of passing of the same.

The petitioner will be at liberty to pray from the department a copy of the prescribed proforma in which applications for compassionate appointment are usually

made by the dependants/candidates.

Since no affidavits have been directed to be exchanged in the said writ petition, all the allegations contained therein, are deemed not to have been admitted by the parties.

With the aforesaid directions, the writ petition, being **WPA 11466 of 2022**, is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)