

17.02.2023

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WPA 11441 of 2018
with
IA No.CAN 1 of 2019 (Old No. CAN 3357 of 2019)

Sourav Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Sandip Kundu
... For the petitioner.

Ms. Debjani Sengupta
Mr. Abhijit Chatterjee
... For the University.

Ms. Usha Maiti
Mr. Sakya Maity
... For the College Authority.

Ms. Sima Adhikari
Ms. Kakali Naskar
... For the State.

Re: CAN 1 of 2019 (Old No. CAN 3357 of 2019)

Having considered the averments made in the application for restoration, I am of the view that the petitioner has provided sufficient explanation for not appearing before this Court of March 01, 2019.

Accordingly, the order dated of March 01, 2019 is recalled and the writ petition is restored to its original file and number.

CAN 1 of 2019 is allowed.

WPA 11441 of 2018

Father of the petitioner was a Group – D staff at Raja Narendralal Khan Women’s College. He died in harness on August 18, 2016. The petitioner, who is the

only son, made an application before the College for his compassionate appointment.

The College, in turn, forwarded the papers to the Director of Public Instruction, West Bengal by a letter dated February 07, 2017.

It has been submitted by Ms. Sengupta, learned advocate appearing for the Vidyasagar University that at the time of death of his father, the petitioner was already married therefore, the petitioner is not only capable to maintain himself but also his family. Therefore, there is no need for providing a compassionate appointment to the petitioner.

Ms. Adhikari, learned advocate appearing for the State submits that since there is no applicable scheme for the compassionate appointment, the State cannot appoint the petitioner on compassionate ground.

Ms. Maiti, learned advocate appearing for the College submits that the College has forwarded necessary papers to the Director of Public Instruction, it has got no further role to play in the matter. It is up to the Director of Public Instruction to either accept or reject the case of the petitioner.

I am of the view that being married does not necessarily mean that there is no financial hardship in the family. It depends on the facts and circumstances of each case and in general marriage is not a disqualification for compassionate appointment which

is aimed at providing financial support to the family of the deceased employee.

I also do not endorse the view of the State that since there is no scheme, the petitioner should be deprived of being considered for compassionate appointment. Statute 163 of the Vidyasagar University, First Statutes, 1983 provides for such compassionate appointment.

In that view of the matter, this writ petition is disposed of with a direction upon the Director of Public Instruction to consider the case of the petitioner for compassionate appointment in accordance with law, preferably within a period of two months from the date of communication of this order. Before passing the order, the Director of Public Instruction shall hear the petitioner or his authorised representative.

Accordingly, WPA 11441 of 2018 is disposed of.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)