

07.08.2023
ML-14
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13813 of 2023

Smt. Mamon Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Phatick Chandra Das,
Ms. S. Chowdhury (Bandhu) ...for the petitioner.
Mr. Somnath Naskarfor the State.
Mr. S. S. Koleyfor WBSETCL.
Mr. Asif Iqbal Ahmedfor the respondent nos.6 & 7.

Pursuant to an order dated March 16, 2023, this Court directed consideration of the prayer for compassionate appointment of the petitioner by the respondent authorities upon giving a personal hearing to the petitioner.

This Court directed that “no objection” from the parents-in-law of the petitioner would also be taken into account while considering the prayer for compassionate appointment of the petitioner. Furthermore, it was directed that in the event the parents of the deceased employee chose not to represent themselves on the stipulated date of hearing, it would be deemed by the employer/West Bengal State Electricity Distribution Company Limited (WBSEDCL) that they have “no objection” to the compassionate appointment being granted to the petitioner.

Pursuant to the directions passed by this Court, a personal hearing was given to the petitioner as well as the parents-in-law of the petitioner. The parents-in-law appeared in person. The father-in-law of the petitioner stated that he along with his wife were dependent on their son. They were going through extreme financial hardship. All the death benefits received by the daughter-in-law/petitioner were not shared in accordance with law with the mother-in-law of the petitioner. The parents-in-law further confirmed that they would provide a “no objection” certificate when the portion of the death benefits is remitted by the petitioner to their account, in accordance with law.

From the impugned order dated April 27, 2023, it appears that the petitioner receives a monthly pension of Rs.30,806/-. Furthermore, she received a sum of Rs.3,97,499/- as Provident Fund dues and a sum of Rs.3,45,480/- as gratuity amount. She also admitted that she got cash equivalent to the leave salary, though during the said hearing she did not confirm the said amount.

Ms. Chowdhury (Bandhu), learned counsel appearing on behalf of the petitioner submits that previously a “no objection” was given by the parents-in-law. Such “no objection”, even if in proper form, should have considered by the respondent authorities. Her prayer for compassionate appointment should

have been considered by the respondent authorities without requiring a fresh “no objection” from her parents-in-law.

Mr. Koley, learned counsel appearing on behalf of the respondent/WBSEDCL submits that unfairly the petitioner is seeking to deprive her mother-in-law from the death benefits of her son, which she is entitled to in accordance with law.

The regulation of Finance (Audit) Department, Government of West Bengal dated August 12, 2020 clearly stipulates that prayer for compassionate appointment shall only be considered after there is a declaration from the other family members that they have “no objection” to compassionate appointment being given in favour of the applicant.

In such view of the matter, there was no illegality or arbitrariness in refusing to consider the prayer for compassionate appointment till such time a “no objection” certificate was given by the parents-in-law.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the petitioner is frivolously seeking to waste the judicial time of this Court. She has not complied with the requirements of WBSEDCL for praying for compassionate appointment. On one hand, she is seeking to deprive her mother-in-law from getting her legitimate dues due to unfortunate death of her son and on the other hand, she is

seeking legal recourse for agitating her prayer for compassionate appointment.

This Court does not find any merit in the writ petition. However, considering the fact that she is a widow and in necessity of a job, this Court does not impose any cost which it was otherwise minded to do.

With the directions aforesaid, **WPA 13813 of 2023** is **dismissed**.

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

All parties shall act on the server copy 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.)