

Court No. 8

MAT 1099 of 2022

12.09.2023

(AD 52)

(S. Banerjee)

Vinay Prakash Pathak

Vs.

The State of West Bengal & Ors.

with

CAN 1 of 2022

Mr. K. S. Alam

... for the appellant

Mr. Santanu Kumar Mitra

Mr. Ganga Prasad Mukherjee

... for the State

The order of the learned Single Judge rejecting the prayer of the petitioner for being considered in the died-in-harness category is the subject-matter of challenge in this appeal.

The father of the writ petitioner was the assistant teacher in one Adarsha Hindi High School, Tollygunge. He died-in-harness on 22nd November, 1978. The mother of the petitioner made a representation before the 3rd respondent on 14th June, 2002 praying for compassionate appoint in favour of the petitioner when the petitioner had passed his Madhyamik examination. The petitioner is handicapped and is suffering from 65% disability. In view of the fact that the said application was not processed, a writ application was filed in which an order was passed on 4th September, 2002 by which the respondent authority was directed to consider the representation of the writ petitioner and to dispose it of with a reasoned order. On 13th January, 2005 the prayer for compassionate appointment was rejected. Thereafter a writ petition was filed challenging

the said order. It appears that the application of the writ petitioner for registering his name in the live register of the died-in-harness category of the concerned school, was refused by the appropriate authority in February, 2002. At that point of time the petitioner was 23 years and almost about 23 years had passed from the death of his father who died on November 22, 1978. It was on that ground the prayer for compassionate appointment was rejected. The learned Single Judge refused to interfere with the said reasoned order upon noticing that the compassionate appointment is not a matter of right and in case of an untimely or sudden death of an employee during employment if the situation so arises that the family cannot immediately survive due to such loss of employment of the Government employee to give a chance for survival to such family, compassionate appointment is provided. The lapse of almost 23 years from the date of death is a factor which is relevant in deciding the compassionate appointment.

In such circumstances, we are not inclined to differ with the order of the learned Single Judge.

The appeal is dismissed.

(Soumen Sen, J.)

(Siddhartha Roy Chowdhury, J.)