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17.11.2023
d.p.

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

W.P.A 15137 of 2023

**Suman Pal
-versus
The State of West Bengal & Ors.**

**Mr. Sandip Ghosh,
Mr. Partha Sarkar.
...For the Petitioner.**

**Mr. Srijan Nayak,
Mr. Ankit Sureka,
Mr. Biplab Das.
...For the Respondent No.2.**

**Mr. Partha Sarathi Sengupta, Sr. Adv.
Mr. Malay Kumar Roy.
...For the Respondent
Nos.3 and 5.**

**Mr. Rajarshi Basu,
Ms. Mita Bag.
...For the State.**

The decision communicated by the General Manager (Administration), West Bengal State Cooperative Marketing Federation Limited vide communication dated 30th June, 2022 intimating the petitioner that appointment on compassionate ground cannot be given in terms of the notification No. 251-Emp dated 3rd December, 2013 is impugned in the present writ petition.

The father of the petitioner was an employee of BENFED. He died-in-harness on 15th August, 2011. An application seeking compassionate appointment was filed by the widow on 14th September, 2011. The

rejection of the prayer for compassionate appointment was communicated to the petitioner in June 2022.

The petitioner submits that there are several similarly situated candidates who have been provided employment on compassionate ground in BENFED.

It has been submitted that the notification No. 251-Emp relied upon by the respondent authority will not be applicable in the present case.

Prayer has been made for setting aside the impugned rejection with further prayer for giving appointment to the petitioner on compassionate ground.

The respondents have raised an issue with regard to the maintainability of the writ petition.

It has been submitted that writ petition will not be maintainable against BENFED as the same cannot be treated to be 'State' under Article 12 of the Constitution of India. BENFED is an autonomous body guided by its own rules.

In response to the aforesaid submission with regard to the non-maintainability of the writ petition before this Court the petitioner has relied upon the judgment dated 28th June, 2012, 3rd July, 2012 and 17th July, 2012 passed by a coordinate Bench of this Court in WP 14960 (W) of 2005 with WP 22091 (W) of 2005 (Md. Parirokh Hossain -vs- State of West Bengal & Ors.) wherein the Court was of the opinion that nexus of BENFED with the State is palpable from the fact that in the absence of a Managing Director, it is the Principal Secretary, Department of Co-operation,

Government of West Bengal who is holding charge of running the organisation. The Court was pleased to entertain the writ petition filed against BENFED and was further pleased to pass necessary order therein.

On a query from the Court, learned advocate appearing for the petitioner has failed to produce or rely upon any scheme permitting appointment on compassionate ground in BENFED.

In the absence of a proper scheme for providing appointment on compassionate ground, the prayer of the petitioner seeking appointment on compassionate ground cannot be entertained.

The petitioner has also failed to produce any document to show that the notification No. 251-Emp would be applicable in the facts and circumstances of the present case.

Notification No. 251-Emp has been produced in Court. It appears therefrom that the same is applicable in respect of the dependent family member of a Government employee. 'Government employee' as defined in the said notification means a Government employee appointed on regular basis and not the one working on daily wage or casual or apprentice or ad-hoc or contract or re-employment basis.

The father of the petitioner was not a Government employee. He was an employee of BENFED which may be treated as 'State' but certainly the employee cannot be treated to be a Government employee.

In view of the above, the prayer of the petitioner seeking compassionate appointment cannot be accepted.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)