

12.09.2023
DL-12
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16069 of 2023

Bharati Das
Vs.
State of West Bengal & Ors.

Mr. Anindya Halder,
Ms. Puja Goswami
....for the petitioner.

Ms. Tuli Sinha
....for the respondent nos.1 to 3.

Affidavit of service filed in Court today is retained with the records.

Ms. Sinha, learned counsel represents the State of West Bengal.

Despite service no one represents Raghunathpur Municipality in Court today. The municipality was also not represented on August 16, 2023.

Written instructions filed in Court today on behalf of the State respondents issued by the Director of Local Bodies, West Bengal are retained with the records.

It appears from the written instructions that the petitioner's husband was a permanent employee of Raghunathpur Municipality. He died-in-harness on December 23, 2004. The petitioner was appointed on compassionate ground as a casual worker on January 11, 2005. The petitioner prayed several times for appointment as a permanent employee under

Raghunathpur Municipality, but her prayer was not considered. Thereafter, the writ petitioner filed writ application, being WP 13101 of 2009. An Hon'ble Coordinate Bench directed the Chairman, Raghunathpur Municipality to consider the prayer of the writ petitioner within 15 days. The petitioner was appointed as a para-teacher in a private school managed by the Municipality with effect from January 1, 2011.

The petitioner's case is that since 2011 she made various representations before the Municipality for being appointed as a regular employee but such representations have not been heeded to. Therefore, the petitioner was constrained to file the instant writ petition.

From the written instructions, it further appears that the Department of Municipal Affairs drafted a policy for compassionate appointment to offer the dependants of the employees who died-in-harness, such appointment. However, the Finance Department, Government of West Bengal has intimated the Department of Municipal Affairs that such benefits are not under consideration by the Government, at present.

Considering the rival submissions of the parties and the materials placed on record, this Court is of the view that the prayer for compassionate appointment has to be considered on the basis of the

applicable scheme/policy that was in place when the petitioner's husband died-in-harness on December 23, 2004. Whether or not there was any subsequent change in policy after 2013 is not relevant for consideration of such appointment.

Keeping in mind such observations by this Court, the petitioner's prayer for compassionate appointment on a permanent basis against a regular vacancy should be considered by the respondent no.4/the Chairman Raghunathpur Municipality within 8 weeks from date.

The petitioner shall be given a personal hearing and a reasoned order shall be passed and communicated to the petitioner within 2 weeks of passing thereof.

With the directions aforesaid, **WPA 16069 of 2023 is disposed of.**

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.)