

22.11.2023
Court No. 13
Item No. 4
AP

WPA 19371 of 2023

**Chhaima Khatun
Vs.
The State of West Bengal and Ors.**

Mr. Pradip Kumar Mondal
Mr. Arka Mondal

... For the Petitioner.

Mr. Suman Sengupta
Mr. Sanatan Panja

... For the State.

1. The writ petitioner is aggrieved by an order dated 10th July, 2023 passed by the Assistant Secretary, Government of West Bengal, Department of Panchayat & Rural Development.

2. A report has been filed before this Court by the Deputy Secretary to the Government of West Bengal, Panchayats and Rural Development Department and the same is taken on record.

3. By the impugned order dated 10th July, 2023, the application for compassionate employment made by the writ petitioner on account of the death of her father, Atar Ali Molla, a Gram Panchayat Karmee under the Diamond Harbour –I Block, was rejected on account of delay of more than five years from the death of her father.

4. The facts as available in the writ petition, however, indicate that the writ petitioner's father died in July 1999. On 26th August, 1999 the writ petitioner is stated to have

applied for compassionate appointment. At the relevant point of time the writ petitioner was 16 years and 21 days old.

5. The writ petitioner could not have made such application. Even if such application was made, the same was liable to be rejected.

6. Be that as it may, the writ petitioner's case for compassionate appointment was processed and considered by the respondents. There is no valid explanation as to why the application at all came to be processed in the year 2001 and thereafter.

7. Sometime on 2nd January, 2012, merely 12 years after the death of the employee concerned, a recommendation emerges from the Commissioner, Panchayat and Rural Development, Government of West Bengal to appoint the writ petitioner on compassionate ground. The said recommendation is ex facie illegal. There cannot be any entitlement for compassionate employment, much less any recommendation to that effect, 12 years after the death of the employee.

8. The instant writ petition was filed in the year 2023 after receiving a letter dated 10th July, 2023 issued by the Assistant Secretary, which is impugned herein. It is not clear as to how an application for compassionate

appointment came to be entertained 23 years after the death of the concerned employee.

9. It is well-settled that compassionate appointment is not a matter of right and an exception to the normal rule of recruitment and employment in the State. Compassionate appointment is aimed at tiding over a sudden financial crisis that would be created as a consequence of the death of the sole bread earner of the family.

10. In the facts and circumstances narrated hereinabove, the writ petitioner firstly was not eligible for compassionate appointment at the time of death of her father as she was under age. The entertainment and recommendation 12/23 years after the death of the employee, by the Commissioner, Panchayat and Rural Development, Government of West Bengal is itself illegal and contrary to law.

11. It is equally well-settled that there is no estoppel against the law. Once an entitlement stood extinguished in law, the question of consideration of any acceptance or rejection thereof after such extinguishment of entitlement, therefore, cannot arise.

12. For the reasons stated hereinabove, the writ petition fails and is hereby dismissed.

13. There shall be no order as to costs.

14. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)