

24.07.2023
Item No.66
Crt.No.22
b.r.

WPA 19104 of 2018

Rajyashree Mahato
-vs-
The State of West Bengal & Ors.

Ms. Munmun Tewari
.... For the petitioner.

Mr. Jahar Datta
Mr. Supriya Majumder
..... for the State.

The previous order speaks for itself.

Today, the writ petition appeared under the heading **“For Dismissal”**.

Affidavit of Service filed in Court today be retained with the record.

Ms. Munmun Tewari, learned advocate appeared for the petitioner.

Mr. Jahar Datta, learned State Counsel appeared for the respondent nos. 2 to 4.

This is a hearing matter of 2018.

Pursuant to direction made by a co-ordinate Bench on July 11, 2019 an affidavit-in-opposition was served upon the petitioner though the original is not available in the file. The petitioner also files its reply affirmed on April 28, 2023. The same is on record.

Though the writ petition appeared under the heading **“For Dismissal”** but since the learned

advocates for the relevant parties are present and they have agreed to proceed with the writ petition for consideration and dismissal and the same was taken up.

The petitioner is the daughter of the deceased mother State-employee, namely, Smt. Arati Mahato, who worked as a Lady Extension Officer under the Mass Education Department, State of West Bengal. The employee died in-harness on **August 10, 2005**. The son of the deceased employee then applied for compassionate appointment. It was contended that the compassionate appointment was granted, though after about 8 years. At this juncture, the original applicant being the son of the deceased employee had requested the said appointment may be granted to her sister, i.e. the daughter of the deceased employee. He did not receive the said compassionate appointment. The daughter now being the petitioner in this writ petition claimed compassionate appointment in place of her deceased mother who was a State employee.

Drawing attention to the documents annexed to the writ petition, Ms. Munmun Tewari, learned advocate submitted that all the formalities were duly complied with. The State authority had also made its proposal **on May 3, 2017 Annexure P4 at page 21 of the writ petition.**

Drawing attention at **page 23** from the writ petition, learned advocate for the petitioner submitted that vacancy was also available for the post of **Class-III employee as informed by the Mass Education Extension Officer.**

In such situation, the petitioner claimed compassionate appointment.

Mr. Jahar Datta, learned State Counsel submitted that originally the compassionate appointment was granted to the original applicant being the son of the deceased employee. The son did not continue with such an appointment and sought to assign such appointment in favour of the petitioner, being the daughter of the deceased employee. He submitted that, compassionate appointment is not a matter of right. Compassionate appointment is the creature of benevolent and welfare policy of the State. The policy does not permit such an assignment of employment, far to speak of at the option of the applicant for the same.

After considering the rival contention of the parties and upon perusal of the materials on record, this Court proceeded to deal with the issue in view of the law settled thereupon.

It is settled that, compassionate appointment is not an alternative mode of generation of employment. It depends upon the benevolent and welfare policy of the

State to protect the distressed family of a State employee who died untimely and to meet the immediate financial crisis for survival of such family.

In the facts of this case, the employee **died on August 10, 2005** the compassionate appointment was granted to her son, the original applicant, though he after 8 years, but the son did not accept and continue with such employment and wanted to pass on the same to his sister being the daughter of such State employee. Such passing off an employment or assignment of employment for compassionate appointment is surely not permitted in law.

In view of the foregoing discussions and reasons, this Court is of the firm view that, the claim of the petitioner for compassionate appointment in the facts of this case is totally misconceived and not tenable in law.

The writ petition is devoid of any merit.

Resultantly, this writ petition being **WPA 19104 of 2018 stands dismissed without any order as to costs.**

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)