

13.06.2023
Item No.16
Ct. No.5
CHC
(dismissed)

W.P.S.T.151 of 2019

Gopal Chandra Bhar
Vs.
State of West Bengal & ors.

Mr. Srijib Chakraborty,
Mr. Ramij Munsi,
Mr. Rittik Chowdhury,
Mr. Nishant Choudhary,
Mr. Deeptangshu Kar
...for the petitioner

Order dated March 14, 2019 passed by the West Bengal Administrative Tribunal in O.A.186 of 2017 is under challenge in the present writ petition.

By the impugned order, learned Tribunal upheld rejection of the prayer for compassionate appointment made on behalf of the petitioner.

Inter alia, the learned Tribunal cited a ground of the writ petitioner failing to meet the financial criteria governing grant of compassionate appointment.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner committed a mistake by entering the relevant column in the application for grant of compassionate appointment by showing two of his other brothers who were gainfully employed and drawing salary to be a

member of the same family. He submits that, although the application for compassionate appointment containing such details of same family were subjected on June 26, 2014. Such application was not considered and was rejected only on December 8, 2016. Petitioner submitted a letter dated January 12, 2017 by which, the two brothers claimed that they were living separately. In any event he submits that one of the brothers is now dead and therefore the family income will obviously be discussed to make the petitioner come within the ambit of the financial criteria.

None appears for the State even in the second call.

The deceased employee expired on April 1, 2014. An application for compassionate appointment was submitted at the behest of the writ petitioner on August 26, 2014. The deceased employee was survived *inter alia* by a daughter and three sons. Out of the three sons, the writ petitioner before us is one of them. Two of the other sons of the deceased employee were gainfully employed. Application for the writ petitioner dated August 26, 2014, contains the details of the heirs and legal representatives of the deceased employee. They stated at several places that writ petitioner was living with two brothers who were gainfully employed and drawing salary. The

application also contains letters of such heirs stated that they do not object to compassionate appointment being granted to writ petitioner. At no point of time contemporaneously let the writ petitioner or his brother state that the brothers who were gainfully employed living separately. Application of compassionate appointment was not being considered and therefore, the writ petitioner approached the Tribunal by way of Original Application which was disposed of by an order dated August 19, 2016. BY such order, the learned Tribunal directed the authority to consider the application of the writ petitioner for granting compassionate appointment.

Acting in terms of the order dated August 19, 2016, the authority rejected the prayer for compassionate appointment of the writ petitioner on December 8, 2016, *inter alia* on the ground of the writ petitioner improving financing criteria. Thereafter, a letter purportedly issued by the writ petitioner was submitted with the authorities claiming that he was living separately than the gainfully employed brothers. The decision on the application for compassionate appointment was already taken on December 8, 2016. The subsequent letter dated January 12, 2016 is obviously an afterthought and made for the purpose circumventing the adjudication process of grant of compassionate appointment. The

ground for compassionate appointment is not vested right. It is to be considered on the basis of the terms and conditions governing employment of the deceased employee are afforded to a family of the deceased employee who is in financial distress. The writ petitioner cannot be said to be in financial distress with two of other brothers being gainfully employed at the material point of time. The writ petitioner admittedly did not qualify the financial merit. Subsequent to one of the sons of the deceased employee is again of non consequence.

In such circumstances, we find no reason to interfere with the impugned order.

W.P.S.T. 151 of 2019 is dismissed accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)