

10 18.10.2023

Ct-08

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MAT 1783 of 2023

with
I.A No. CAN 1 of 2023

Chanchal Shaikh
Vs.
State of West Bengal & Ors.

Mr. Nitya Gopal Mukherjee
Ms. Kaushiki Chakraborty
... For the Appellant

Mr. Jayanta Samanta
Mr. Manoj Kumar Mondal
... For the State

Mr. Nilotpal Chatterjee
Mr. Satyaki Banerjee
Mr. Sourabh Sengupta
... For the Calcutta University

1. We have heard the learned counsel appearing for the parties.

2. Admittedly the father of the petitioner was a Mess Helper under Calcutta University. He died in harness on 17th January, 2013. The payer of the petitioner for compassionate appointment was rejected on 20th August, 2019 on the ground of the Notification of Higher Education Department, Government of West Bengal, dated 20th October, 2014 treated all existing post of Hostel/Mess employees in all State aided universities as “dying cadre” and all such posts should be treated as personal to the incumbent. No further recruitment either contractual or permanent including appointment on compassionate ground was allowed to such posts with effect from the date

of issuance of the said order.

3. Learned counsel representing the appellant has relied upon a Government Circular dated 30th December, 2014 in which various points were referred to the Government of West Bengal, Higher Education Department with regard to the implementation of G.O No. 874 Edn.(CS) dated 28th October, 2014. One of the issues considered by the Additional Secretary, Higher Education Department was whether the Hostels/Mess employees of Government college/Government aided colleges and Universities would be entitled to non-teaching and Group-D status from the date of their respective appointment.

4. The clarificatory note shows that the Government was of the view that it should be answered in the affirmative and necessary amendments are required to be made in the University statute. In the event, the Mess Helper is considered to be a Group-D status then the rule with regard to the compassionate appointment upon the death of a Group-D employee is required to be considered on the basis of the rule existing on the date of death of such employee. Moreover the Supreme Court in ***G. B. Pant University of Agriculture & Technology v. State of U.P. &***

Ors., reported in **2000 (7) SCC 109** has held that a Mess Helper shall come within the category of Group-D employee. The response of the Additional Secretary, Higher Education Department in answering the query in affirmative possibly on the basis of the aforesaid judgment of the Hon'ble Supreme Court.

5. On such consideration, we set aside the order passed by the learned Single Judge.

6. We direct the Registrar, Calcutta University to reconsider the application for compassionate appointment upon treating the Mess Helper as a Group-D employee of the University and to ascertain whether the appellant would be entitled for being appointed under die-in harness category on compassionate ground on the basis of the rules that were applicable to a Group-D employee on 17th January, 2023.

7. The Registrar shall decide the matter within six weeks from the date of communication of this order by either of the parties.

8. In view of the aforesaid, the appeal being MAT 1783 of 2023 stands disposed of.

9. In view of the disposal of the appeal, nothing remains to be decided in the application for stay being CAN 1 of 2023 and the same is

accordingly disposed of.

10. However, there shall be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)

