

MAT 1918 of 2023

with

I.A No. CAN 1 of 2023

Jhuma Kayal alias Nafisa Akhan

Vs.

The State of West Bengal & Ors.

Mr. S.S. Arefin

Ms. K. Kulsum

... For the Appellant

1. In spite of service, the respondents are not represented nor any accommodation is prayed for on behalf of the respondents.

2. Affidavit of service filed in Court be kept with the record.

3. We have heard the learned counsel appearing for the appellant.

4. The petitioner is the husband of the deceased employee. The husband of the deceased was a Group-D staff at Baruipur College, South 24 Parganas. She made representation for her appointment on compassionate ground. The said application was not considered.

5. A writ petition was filed for a direction upon the respondent authorities to consider her prayer for appointment on compassionate ground. Learned Single Judge dismissed the writ petition on the ground that the husband of the petitioner died in harness on June 12, 2022 at the age of 58 years and this can not be considered to be untimely death

of the sole breadwinner of the family for which family can be said to have faced financial crises. However, the respondents were directed to release pensionary and other terminal benefits, if not released, within three months from the date of communication of the order.

6. In absence of any reason given by the respondent authorities in not considering the application it is open for the court to direct the authority to decide the said application in accordance with law. It may not be advisable to reject the claim on the aforesaid basis. The application needs to be decided on the basis of the applicable rules or scheme existing on the date of the death of the breadwinner. The proper course would be to direct the respondent authorities to consider the application for compassionate appointment of the petitioner in accordance with law. Accordingly, we direct the authorities to consider the application for compassionate appointment within eight weeks from the date of communication of this order after giving an opportunity of hearing to the petitioner and communicate the final decision within one week from the date of the order.

7. The School authorities are directed to

forward the application of the petitioner and all other required documents to the Director of Public Instruction within a period of seven days from the date of communication of this order in order to enable the said authority to decide the matter in accordance with law.

8. The impugned order is modified to the aforesaid extent.

9. The appeal is allowed in part. However, the direction for payment of pensionary benefit and other terminal benefits are not disturbed.

10. 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.

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

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

(Uday Kumar,J.)

(Soumen Sen, J.)

