

WPA 24243 of 2022

Sk Julfikar
Vs.
State of West Bengal & Ors.

Mr. Koushik Chatterjee
Mr. Nilanjan Adhikari
Ms. Puja Dutta

....for the petitioner

Mr. S.S. Koley

...for the respondent

Mr. Somenath Basu

...for the State

The petitioner has prayed for quashing of an order dated August 9, 2021 and consideration of his prayer for appointment on compassionate ground. The petitioner's son died-in-harness on September 1, 2014. He was an employee of the West Bengal Electricity Distribution Company Limited (WBSEDCL). Almost two and half years after the death of his son he made an application for compassionate appointment on May 2, 2017. Such application was rejected by the impugned order dated August 9, 2021 passed by the Manager (HR&A) of WBSEDCL. It has been recorded in the impugned order that an application for compassionate appointment is to be submitted within two years from the date of death of the deceased employee. The application was made by the petitioner

after the stipulated period of two years and therefore could not be considered. It has also been clarified that an appointment on compassionate ground is made to provide succour to the bereaved family members of a deceased employee to tide over the immediate financial hardship/crisis that a bereaved family may go through due to the sudden death of the bread winner of the family. Challenging the said impugned order a previous writ petition was filed being WPA 2948 of 2022. In the said writ petition the petitioner *inter alia* prayed for setting aside and or quashing of the Impugned order dated August 9, 2021 and also prayed for an appointment on compassionate grounds.

The said writ petition was withdrawn by the learned advocate appearing on behalf of the petitioner. By an order dated May 4, 2022 passed by a Co-ordinate Bench of this Hon'ble Court the said writ petition was dismissed for non-prosecution. No liberty was prayed for preferring an action on the self-same cause of action.

Such facts have been brought to the notice of this Court by Mr. Koley, learned Counsel appearing on behalf of the WBSEDCL.

Mr. Chatterjee, learned Counsel appearing on behalf of the petitioner submits that the prayers in both the writ petitions are substantially different since WPA 2948 of 2022, the petitioner has prayed for

issuance of an appointment letter in his favour by quashing the Impugned order dated August 9, 2021 whereas in the present writ petition the petitioner has prayed for consideration of the petitioner's application by quashing the Impugned order dated August 9, 2021.

Furthermore, he has sought to explain the delay for making an application for compassionate appointment by submitting that since the petitioner was not aware of the applicable policy for appointment on compassionate ground of the employer/WBSEDCL the application was not filed within time.

Considering the rival submissions of the parties and the materials placed on record this Court finds that the prayer in WPA 2948 of 2022 and the prayer in WPA 24243 of 2022 are substantially the same. The language in which the prayers have been couched may be different but the content of the prayers are same.

This Court finds that the issues raised in WPA 2948 of 2022 cannot be agitated again. Furthermore, this Court also finds that an application has been made almost two and half years after the death of the deceased employee and the prayer for compassionate appointment has been rightly rejected by the Impugned order dated August 9, 2021 issued by the Manager (HR &A), WBSEDCL. This Court finds no arbitrariness or perversity in the decision making

process which culminated in the Impugned order dated August 9, 2021.

Compassionate appointment is an exception to the rule and only can be granted in a case where the bereaved family members can show that immediate financial assistance is required. In the event belated applications for compassionate appointment are directed to be considered by the employers, the same would go against the very principles on which the compassionate appointments may be granted. Only if the bereaved family requires immediate financial assistance such appointments may be made. The view of this Court finds support in a recent judgment of the Supreme Court reported in (2020) 7 SCC 617 (**N.C. Santosh vs. State of Karnataka & Ors.**) and also in the judgment of (**State of West Bengal vs. Debabrata Tiwari**) in Civil Appeal Nos. 8842-8855 of 2022.

In the light of the discussions above this Court finds no merit in the present writ petition.

Accordingly, **WPA 24243 of 2022** is **dismissed**.

Since no affidavits have been directed to be exchanged in the present writ petition, all the allegations contained therein are deemed not to have been admitted by the parties.

All parties to act on a server copy of this order downloaded from the official website of this Court.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Lapita Banerji, J)