

21 06.02.2023
Sc Ct. no.22

WPA 24055 OF 2016

Subhash Giri

Vs.

The State of West Bengal & Ors.

Mr. Bhagbat Chaudhuri

....For the Petitioner

Mr. Tapan Kumar Mukherjee

Ms. Debdooti Dutta.

....For the Respondent
Nos. 1 and 2

Affidavit-in-opposition affirmed on March 21, 2022
filed today, is taken on record.

Affidavit-in-reply affirmed on April 20, 2022 filed
today, is taken on record.

The petitioner claimed to be the son of one deceased
Saurendra Giri, since deceased who was a **Group-D**
employee at **Thakur Panchanan Mahila**
Mahavidyalaya, District – Cooch Behar since April 12,
1988. The petitioner's father while in service died on
April 24, 2014 leaving behind the mother of the petitioner
Smt. Rupa Giri and the petitioner as his legal heirs and
representatives. The **Death Certificate** would be
available as **Annexure-P3 to the writ petition.**

The petitioner contended that the deceased father
was the sole earning member of the family. The petitioner
made an application dated May 26, 2014 along with a **No**
Objection of his mother to obtain a compassionate
appointment in place and stead of his deceased father,

Annexure-P4 to the writ petition. Since no step was taken by the relevant college authority, the petitioner again on February 2, 2015 made another application seeking compassionate appointment, ***Annexure-P5 to the writ petition.*** The petitioner also made representations before the respondent nos. 2 to 5 on ***February 5, 2016*** and ***February 8, 2016, Annexure-P6 to the writ petition.***

In the previous round of writ petition ***WPA 5334 (W) of 2016*** filed by the petitioner, the petitioner came to know that the respondent no.5 had already forwarded the appeal of the petitioner for compassionate appointment before the respondent no.2 by virtue of a letter dated ***May 8, 2015, Annexure-P7 to the writ petition.*** A coordinate Bench by its ***order dated April 8, 2016*** disposed of the said previous writ petition directing the ***respondent no.2*** to consider the case of the petitioner and decide the claim for compassionate appointment.

The respondent no.2 thereafter passed a reasoned order dated ***August 12, 2016, Annexure-P10 to this writ petition,*** the same is impugned before this Court through the instant writ petition. By the said impugned order dated August 12, 2016, the respondent no.2 ***rejected*** the case of the petitioner for compassionate appointment ***principally*** on the ground that ***there was no scheme or policy of the Government prevailing on the issue to grant compassionate appointment in the***

Government aided colleges. As such, there was no scope for any compassionate appointment for the petitioner.

Pursuant to the direction made in this writ petition, the respondent nos. 1 and 2 filed its affidavit-in-opposition. The petitioner filed affidavit-in-reply thereto.

Mr. Bhagbat Chaudhuri, learned counsel appearing for the petitioner submitted that in April 2014 when the application was made by the petitioner seeking compassionate appointment necessary scheme was prevailing as the relevant college was under the North Bengal University. Subsequently, when the impugned order was passed, according to the learned counsel no policy or scheme was available since the relevant college was **de-marged** from the North Bengal University and started existing as **Thakur Panchanan Mahila Mahavidyalaya, District - Cooch Behar**. Mr. Chaudhuri further submitted that since on the day when the application for compassionate appointment was made the necessary scheme being available, the petitioner was eligible to receive his compassionate appointment.

Ms. Debdooti Dutta, learned advocate led by Mr. Tapan Kumar Mukherjee, learned senior advocate appearing for the respondent nos. 1 and 2 submitted that while passing the impugned order dated August 12, 2016 the respondent no.2 had duly considered all the materials and the factual materials available before it and found

that no scheme or policy for compassionate appointment for the non-teaching staff in the Government aided colleges was not available, the claim of the petitioner was rightly and lawfully rejected.

After considering the rival contentions and the materials on record, it appeared to this Court that, the said impugned order dated August 12, 2016 was otherwise very well versed and well considered order passed by the respondent no.2.

On a careful scrutiny of the averments made in the affidavits filed by the rival parties, it appeared to this Court that, the petitioner having come up with a specific case that as on the date of passing of the said impugned order dated August 12, 2016 a suitable scheme was prevailing, which could permit the petitioner to receive his claim for compassionate appointment. However, this Court is of the firm view that the **Relevant Date** should be **the date when the consideration was made** for granting a compassionate appointment to an applicant, whether any such scheme for compassionate appointment was prevailing on that date or not.

It is trite that compassionate appointment is not a matter of right neither it is a mode of generating of alternative employment. It is a beneficial State policy and the State is not obliged or bound to grant compassionate appointment particularly when no such policy for such

appointment was prevailing at the ***Relevant Date*** of consideration of the case of the petitioner.

There was no infirmity in the impugned order dated August 12, 2016 passed by the respondent no.2. The same stands affirmed.

Inasmuch as, it is equally trite that the principal object behind the granting compassionate appointment is to support the family of the deceased for its immediate survival in financial distress which has been caused due to sudden and untimely death of the deceased employee. In the facts of this case, the deceased father of the petitioner had died on April 24, 2014 and since 2015 the claim of the petitioner seeking compassionate appointment was pending and ultimately was considered by the said impugned order dated August 12, 2016. Today, we are in 2023. There is no question of imminent survival of the family of the deceased employee by providing a compassionate appointment. The family of the deceased had already survived so long. The compassionate appointment even if is granted it takes effect on and from the date of such grant of appointment and not with any retrospective effect.

In view of the foregoing reasons and discussions, this writ petition is devoid of any merit. Resultantly, this writ petition, ***WPA 24055 of 2016*** stands dismissed, without any order as to costs.

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

(Aniruddha Roy, J.)