

02 11.10.2023
Sc Ct. no.22

WPA 24917 OF 2016

Jemima Kabir

Vs.

The State of West Bengal & Ors.

Mr. Md. Manuwar Ali
Ms. Moumita Karmakar.

....For the Petitioner

Mr. Gourav Das
Mr. Debopriyo Chatterjee.

....For the State

The petitioner claims **compassionate appointment**. The claim of the petitioner was rejected by the respondent no.4 by its impugned order dated **August 31, 2016, Annexure-P3 at page 49** to the writ petition.

Mr. Manuwar Ali, learned counsel appears for the petitioner.

Mr. Gourav Das, learned State counsel appears for the respondent nos. 1 to 4.

The law is well settled that, a Writ Court in exercise of its power under judicial review under Article 226 of the Constitution of India has a limited authority to scrutinise the impugned order. The court will only intervene if there is a glaring perversity or illegality on the face of the impugned order and/or if there is an infirmity in the decision making process.

In the light of the said settled principle of law this Court proceeds to scrutinise the said impugned order dated **August 31, 2016**.

Upon scrutiny the said impugned order dated **August 31, 2016** it appears that the **impugned order is extremely cryptic in nature** and there is no discussion as to how the respondent no.4 came to his conclusion. The reasons in an impugned order by a State authority must be meaningful and must have a coherence with the finding arrived at. There is no such supportive discussion in support of the finding arrived at in the impugned order.

In view of the foregoing reasons and discussions, **the impugned order dated August 31, 2016, Annexure-P3 at page 49** to the writ petition stands **set aside and quashed**.

To subserve justice, the **respondent no.4** shall forthwith and **positively** within a period of **two weeks** from the date of communication of this order **shall transmit and send all the existing records** on the basis whereof the impugned order dated **August 31, 2016** was passed, to the **respondent no.3**.

The respondent no.3 upon receiving such records from the respondent no.4 **positively** within a period of **six weeks** therefrom upon issuing a prior hearing notice of at least three days to the petitioner and the respondent nos. 5 and 6 and after granting them an opportunity of hearing, **shall decide the issue by passing a detailed reasoned order** strictly in accordance with law.

It is clarified that, the respondent no.3 shall carry out the exercise, as directed above, on the basis of the

existing materials and records whereupon the said impugned order dated August 31, 2016 was passed and **not beyond that.**

The respondent no.3 then shall communicate its reasoned order to the petitioner and the respondent nos. 5 and 6 **positively** within a period of **further two weeks** from the date of the said reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner in any manner and the petitioner shall be free to urge his case before the respondent no.3.

In the event the reasoned decision goes in favour of the petitioner, the respondent nos. 3, 4 and 5 shall take all necessary and appropriate steps to give effect thereto.

It is also made clear that this order shall not create any equity or right in favour of the petitioner in the event the petitioner is not eligible to receive her claim strictly in accordance with law.

With the above observations and directions this writ petition, **WPA 24917 of 2016** stands **allowed**, without any order as to costs.

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

(Aniruddha Roy, J.)