

Court No. 22
03.01.2023
(Item No. 12)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 26050 of 2022

Avijit Bera
VS
The State of West Bengal & Ors.

Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Mousumi Hazra
..... for the petitioner
Ms. Chama Mookherji
Mr. Gourav Das
.... For the State

Affidavit of service filed in Court today, is taken on record.

The petitioner claims to be the son of the deceased employee employed as Group-D staff namely **Kajal Lata Pandit (Bera)** at **Brahman Basan High School, District Paschim Medinipur** claimed compassionate appointment. A rival claim for compassionate appointment was also made by the married sister of the petitioner for compassionate appointment under the same circumstance.

Ms. Gopa Biswas, learned advocate appearing for the petitioner submitted that, the son being a qualified person is eligible to receive the claim for compassionate appointment and the daughter being married is not eligible.

Mr. Gourav Das, learned advocate appearing for the respondent Nos. 1-3 and 7 submitted that, in view of the rival claims being lodged, in such situation

the petitioner cannot be awarded with the compassionate appointment unless a proper “No Objection” is issued from all the legal representatives of the deceased employee strictly in accordance with law.

Considering the rival submissions recorded above and considering the materials on record, to sub-serve justice the respondent No. 7 is directed to decide the issues strictly in accordance with law on the basis of the representation of the petitioner dated July 15, 2020, **Annexure P-2** to the writ petition upon giving at least seven days prior hearing notice to the petitioner and his married sister namely, **Pampa Bera** as would be evident from the communication of the respondent No. 7 dated December 27, 2021, **Annexure P-5** to the writ petition and also upon the respondent No. 9 and then after giving them an opportunity of hearing shall decide the issue with a reasoned order/decision.

The entire exercise as directed above shall be carried out and completed by the respondent No. 7 positively within a period of six weeks from the date of communication of this order. The respondent No. 7 then shall communicate its reasoned decision/order to the petitioner, **Smt. Pampa Bera** and the respondent No. 9 positively within a further period of 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 merit of the claim of the petitioner or Smt. Pampa Bera and both of them shall be at liberty to urge whatever points they wish to urge relying upon whatever materials and records they wish to rely upon before the respondent No. 7 in respect of their respective claims. The respondent No. 9 shall render its co-operation during the hearing.

It is further made clear that, in the event, the rival claimants give a proper “No Objection” in favour of the other, strictly in accordance with law, the claim of such favoured candidate may be considered by the respondent No. 7 in accordance with law.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

It is further made clear that, this order shall not create any equity or right in favour of any of the rival claimants **namely the petitioner and Smt. Pampa Bera** in any manner, in the event, they are not eligible to receive their claim strictly in accordance with law.

The petitioner is directed to serve a copy of this order upon Smt. Pampa Bera and shall furnish the necessary evidence of actual service of this order upon Smt. Pampa Bera before the respondent No. 7 strictly in accordance with law.

On the above terms, this writ petition being **WPA 26050 of 2022** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)