

WP.ST. 177 of 2023

(Dilip Kumar Singha. Vs. State of West Bengal & Ors.)

Mr. Dilip Kumar Chatterjee

Mr. Mrinmoy Bhattacharyya

..... For the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP

Ms. Sangeeta Roy

Mr. Somnath Naskar

..... For the State/respondent

The present writ petition has been preferred challenging an order dated 23rd of March, 2023 passed by the learned Tribunal in an Original Application being O. A. 214 of 2016.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that the petitioner's prayer for compassionate appointment was earlier rejected by an order dated 5th January, 2012 without applying the provisions of the rules/orders applicable at the time of death of the petitioner's father. Challenging the said order, the petitioner preferred an original application which was disposed of on 5th April, 2012 quashing the order dated 5th January, 2012 and the matter was sent back to the competent authority for reconsideration.

Mr. Chatterjee submits that the petitioner's claim was thereafter mechanically rejected by an order dated 20th November, 2015 without complying with the directions contained in the order passed by the learned Tribunal on 5th April, 2012. The said issue, as urged, was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Drawing out attention to the documents annexed at pages 45 to 51 of the writ petition, Mr. Chatterjee submits

that the petitioner was called for an eligibility test and being satisfied about his eligibility, the respondent no.4 sent a proposal for issuance of approval of appointment in favour of the petitioner. However, the said memoranda were not taken into consideration by the respondent no. 2 while passing the order dated 2nd November, 2015.

Per contra, Mr. Mukherjee, learned AGP appearing for the State submits that the Government *vide* memo dated 3rd December, 2013 notified the scheme regulating the appointment compassionate ground in supersession of all the previous orders and making provisions for old and undisposed of cases.

Drawing our attention to para 14 (a) and note (c) below para 6 of the said memo, Mr. Mukherjee submits that admittedly the petitioner did not submit the application for compassionate appointment within two years after death of his father and he also did not attain the minimum age for recruitment within six months from the date of death of his father. The claim of the petitioner is thus not supported by the provisions of the said scheme and the learned Tribunal rightly did not interfere with the order dated 20th November, 2015 impugned in the original application.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

The whole object of granting compassionate employment is to enable the family members of a deceased/incapacitated employee to tide over the sudden financial crisis. It is not a vested right. Compassionate employment being an exception to the general rule, the scheme therefor has to be strictly construed.

Indisputedly the petitioner's father expired on 26th June, 1985. Initially there was a dispute as regards grant of family pension in favour of the petitioner's mother and pursuant to the order passed by this Court, the petitioner's mother was granted family pension. Records do not reveal that the petitioner applied for compassionate appointment within the period of two years from the date of death of his father. The petitioner's date of birth is 25th October, 1970 and as such he did not attain the minimum age for appointment within six months from the date of death of his father. In the said conspectus and applying the provisions of the scheme applicable, the learned Tribunal rightly did not interfere with the order impugned in the original application and we do not find any apparent error of law in the learned Tribunal's order, warranting interference in the present writ petition.

In view thereof, the writ petition being WP.ST 177 of 2023 is dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(V.M. Velumani,J.)

(Tapabrata Chakraborty,J.)