

**In The High Court At Calcutta
Jalpaiguri Circuit Bench**

**Before:
The Hon'ble Justice Jay Sengupta**

WPA 330 of 2023

**Bapi Dube
Vs.
State of West Bengal & Ors.**

For the Petitioner : Ms. Jagriti Mishra
Mr. Subham Gupta
Mr. Debayan Goshyami

For the State : Mr. Mr. Hirak Barman
Mr. Momenur Rahaman

Heard on : 13th June, 2023

Judgment Dated : 13th June, 2023

Jay Sengupta, J.: This is an application under Article 226 of the Constitution of India praying for a direction upon the respondents 4 and 5 to accommodate the petitioner in the scheme of compassionate appointment.

Learned Counsel appearing on behalf of the petitioner submits that the petitioner's father was a constable in the Jalpaiguri District Police Force. He died due to snake bite while on duty on 19.04.1999. The wife of the petitioner prayed for compassionate appointment in time. But, her candidature was not considered. After the petitioner

became major in 2010, he applied for compassionate appointment. He was asked to appear in a test for physical measurement, yet was not given appointment. The formal rejection was in 2021. It is trite law that one could apply for a post when one became major. Therefore, there is no delay in applying for the post.

Learned Counsel appearing on behalf of the respondents as follows. Any scheme of compassionate appointment is meant to give immediate relief to the family of the deceased. The application of the wife of the deceased should have been pursued. The same was not done. After passage of several years, the petitioner made an application for compassionate appointment, which cannot be maintained.

I have heard learned Counsels for the parties and have perused the writ petition.

Time and again the Hon'ble Apex Court has observed that compassionate appointment is an exception to the rule of equal opportunity in public job and engagement and would have to be in accordance with the scheme available to a particular cadre of employees.

Compassionate appointment is essentially made to give immediate relief to the family of the deceased.

An application for compassionate appointment has to be made soon after the death or incapacitation and in any event, within a reasonable period. Or else, one would have to presume that the family of the deceased was not in immediate need of financial assistance. On the question of immediate relief being the touchstone for granting compassionate appointment, reliance is placed on Umesh Kumar Nagpal vs. State of Haryana & Ors.,(1994)4 SCC 138 and The State of Himachal Pradesh & anr. Vs. Shasi Kumar, (2019)3 SCC 653.

In the present case, the father of the petitioner died in 1999 and the petitioner made an application for compassionate appointment in 2009 be it after attaining majority.

Hence, if at all, the application for compassionate appointment made by the petitioner's mother should have been pursued. But, the same was not done.

For the foregoing reasons, the prayer for compassionate appointment made by the petitioner was quite rightly turned down.

Therefore, I do not find any illegality in the impugned order.

The writ petition is, accordingly, is dismissed.

However, there shall be no order as to costs.

Urgent Xerox certified copy of this order if applied, be supplied on priority basis.

(Jay Sengupta, J.)