

Sl No.62
28.02.2023.
SB-II

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 391 of 2023
Sri Gopi Nath Roy
-versus
The State of West Bengal & Ors.**

Mr. Narendra Nath Das
Ms. Binapani Singha
Mr. Pragyadip Roy Basunia
Mr. Pratyush Adhikary
Mr. Gopal Roy
Mr. Madhab Kumar Roy
Mr. Jagesh Roy
... for the petitioner.

Mr. Hirak Barman
Mr. Momenur Rahman
... for the State.

The writ petition has been filed by the son of an employee of the respondent authority who died-in-harness on March 16, 2008.

After the demise of his father the mother of the petitioner i.e. the widow of the employee applied for being provided appointment on compassionate ground on May 2, 2008. The application of the widow was, however, rejected in the year 2009 by the Selection Committee on the ground that she was over-aged.

The petitioner was a minor at that point of time. On attaining majority in January 2012 the petitioner applied for being provided appointment on compassionate ground. The Selection Committee considered the prayer of the petitioner for appointment and on April 22, 2016 the Superintendent of Police, Jalpaiguri forwarded to the Inspector General of Police

(Administration) the proposal for engagement of the petitioner in a Group-D post on compassionate ground.

The case of the petitioner was, however, rejected on the ground that the candidate did not fulfill the required conditions as laid down in the Notification No. 251-Emp dated December 3, 2013 of the Labour Department read with the subsequent amendments, made from time to time.

The Notification No. 251-Emp mentions a time period within which the application is required to be filed for obtaining compassionate appointment.

Admittedly, in the present case the petitioner was a minor on the date his father died-in-harness. The prayer of the widow was also rejected in the year 2009 when the petitioner was still a minor.

In matters relating to compassionate appointment it is settled law that the need and purpose of providing such appointment is to help the family to tide over the immediate financial crisis faced on the death of a bread-earner. There is no scope of reservation of vacancy till a minor attains majority and files application for consideration of the prayer for compassionate appointment.

In the present case, the prayer of the petitioner has been rejected allegedly relying upon the Notification No. 251-Emp read with the subsequent amendments.

In the Notification No. 26-Emp dated March 1, 2016 amending the Notification No. 251-Emp, a new clause has been added i.e. 10(aa) which caters to the belated requests made for providing compassionate appointment. The amendment mentions that in

exceptional cases where none in the family is eligible, the department can consider the request for compassionate appointment even where the death took place upto five years ago. While considering such belated request a three member screening-cum-enquiry committee should, however, keep in view the concept of compassionate appointment. Examination of such cases calls for a great deal of circumspection at all levels.

In this case, though it appears that, the petitioner was a minor at the time of the death of his father but immediately upon attaining majority application was made by him and the said application of the petitioner squarely falls under Clause 10(aa) of the notification for amendment dated March 1, 2016.

The Superintendent of Police as late as on April 22, 2016 forwarded the proposal of the petitioner for being appointed relying upon the enquiry report of the three member screening-cum-enquiry committee on April 19, 2016.

There is no apparent reason mentioned in the impugned order as to why the case of the petitioner cannot be considered in terms of the notification dated March 1, 2016.

In view of the above, the present writ petition is disposed of by setting aside the impugned order dated February 21, 2022 and directing the concerned respondent authority to re-consider the prayer of the petitioner in the light of the observations made hereinabove and the prevailing notifications /memoranda/circulars of the Government in the instant field.

A decision shall be taken in the matter at the earliest but positively within a period of eight weeks from the date of communication of this order.

A reasoned order shall be passed and communicated to the petitioner immediately thereafter.

The writ petition stands disposed of.

Report filed by the Superintendent of Police, Jalpaiguri signed on February 25, 2023 be retained with the records.

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

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(Amrita Sinha, J.)