

Dd **40 30.11.2023**

*Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side*

MAT 23 of 2023
with
I.A NO: CAN 1 of 2023

Padma Mohanta (Roy)
Vs.
The State of West Bengal & Ors.

Mr. Bhaskar Roy Mahashaya, Advocate
... ... For the Appellant

Mr. Subir Kr. Saha,
Mr. Pretom Das, Advocates
... ... For the State

Appeal is directed against a judgment and order dated February 6, 2023 passed by the learned single Judge in WPA 245 of 2023.

By the judgment and order, the learned single Judge declined to intervene in the writ petition. Learned single Judge declined to grant the relief of compassionate appointment to the writ petitioner who is the appellant herein.

Learned advocate appearing for the appellant submits that, the father of the appellant expired on July 31, 2009. The father of the appellant was an employee of the State Government in the Forest Department. The elder sister of the appellant applied for compassionate appointment in 2015. She was granted a letter of appointment on January 22, 2020 in the Department of Health. She, however, did not accept the appointment. Thereafter, the appellant

applied for compassionate appointment. Her application for compassionate appointment is yet to be considered and decided.

State is represented.

Compassionate appointment is an exception to the general rule of appointment by Article 12 Authorities.

Compassionate appointment is granted to the family of the deceased employee to tide over the immediate financial crisis that the family of the deceased employee faces with on the death of the employee.

Delay in making an application for compassionate appointment is a relevant consideration.

In the facts of the present case, the employee expired on July 31, 2009. An application for compassionate appointment was made by the sister of the appellant in 2015 and such sister was granted compassionate appointment on January 22, 2020, albeit at the Department of Health under the State Government.

It is the claim of the appellant that, such sister being given such appointment, did not opt for the same as it was in a department different to that of the deceased employee.

Appellant applied for compassionate appointment on December 21, 2021. A period in excess of 12 years expired from the date of death of the deceased employee for the appellant to make the application for compassionate appointment. On the ground of delay alone, the application is not required to be considered. As noted above, the family of the deceased employee was not in a financial distress for

the appellant to wait for a period of 12 years to make the application for compassionate appointment. Moreover, the conduct of the appellant is required to be considered in light of the grant of compassionate appointment to the sister of the appellant in 2020 and refusal of such sister to accept such appointment. Therefore, in the conspectus of the facts narrated above, the family of the deceased employee was not in need of any financial assistance for grant of compassionate appointment.

In such circumstances, we are of the view that the appellant is not entitled to compassionate appointment as applied for by her.

Consequently, MAT 23 of 2023 along with CAN 1 of 2023 are **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)