

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

WPA 747 of 2021

**Rajib Sekh & Anr.
-Versus-
The State of West Bengal & Ors.**

For the Petitioner : Mr. Sanjay Mazoomdar.

**For the State : Mr. Subir Kumar Saha,
Mr. Momenur Rahman.**

For the NBSTC : Mr. Bikramaditya Ghosh.

Heard & Judgment On : 2nd February, 2023.

Father of the petitioners, since deceased, was an employee of North Bengal State Transport Corporation. He joined his service on 1st October, 1988. While in employment the father of the petitioner died on 16th June, 2005. As the father of the petitioner died in harness, the petitioner being the son filed an application in the year 2008 for compassionate appointment in North Bengal State Transport Corporation. The said representation was not considered which led the petitioner to file a writ petition before the High Court at Calcutta being WP No. 1142(W) of 2010. A Coordinate Bench disposed of the

said application directing the respondent authority to treat the writ petition as a representation and dispose of the representation with reasoned order. The respondent authority duly complied with the direction passed by this Court and submitted inter alia that as on the relevant date there was no scheme for compassionate appointment in the said organization, namely, NBSTC. Therefore, without any scheme it is not possible to entertain the petitioner's application for compassionate appointment.

Learned Advocate for the petitioner referring to an unreported decision in **WPA/11557/2020, Namita Bhowmick -Vs.- State of West Bengal** decided on 15th January, 2021 submits that a Coordinate Bench under the similar facts and circumstances directed the respondents to consider the case of the petitioner if the petitioner can be appointed on contractual basis.

I have perused the aforesaid decision. I am sorry I cannot be in conformity with the aforesaid decision on the following grounds:-

The said decision does not formulate any ratio and binding precedent. Secondly, the scheme for compassionate appointment and contractual appointment operate in two different circumstances. While compassionate appointment is generally called a backdoor appointment and such scheme is created in different organization only to save the family of a deceased employee or an employee who is

incapacitated or permanently disabled to perform his duties to save the family from starvation. On the other hand, contractual appointment is absolutely temporary and fortuitous in nature. No right is created on contractual appointment. On the contrary, compassionate appointment is always made in the cadre and such appointment is made on the basis of the scheme formulated by the appropriate Government for recruitment of a dependent person of the deceased employee in a cadre post of the organization.

Since there is no such scheme in NBSTC I am not in a position to grant any relief to the petitioner. The instant writ petition is, thus, dismissed on contest, however, without any cost.

(Bibek Chaudhuri, J.)

Srimanta, A.R.(Ct.)
Item No. 2.