

November 24, 2023
Sl. No. 7
Court No.2
s.biswas

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

WPA 2577 of 2023

Dipa Sil
vs.
The State of West Bengal and others

Mr. Anjan Bhattacharyya
Mr. Nabankur Paul
Mr. Abhishek Sarkar

... for the petitioner

Mr. Momenur Rahman
Mr. Bikash Singha

...for the State

Affidavit of service filed by the petitioner is taken on record.

The case of compassionate appointment of the petitioner was rejected by the District Library Officer, Jalpaiguri on the ground that the day when the petitioner appeared before the authority for hearing on March 31, 2021, she was married and had a child aged one year seven months.

The mother of the petitioner died in harness on July 31, 2019. According to the authority, there was no provision for employment of a married daughter, on compassionate ground.

Mr. Bhattacharyya, learned advocate for the petitioner, relies on a decision of the Hon'ble Special Bench of this court as also a Division Bench of this court, indicating that the question of

compassionate appointment to a married daughter would be judged according to the formula available in the scheme of the Labour Department, based on the issue of dependency, requirement and the financial stringency. The dependence of the married daughter on the income of the deceased parent, rather than the fact that the daughter was married at the time of the death of the parent, would be the relevant consideration.

Mr. Rahman, learned advocate for the State-respondents submits that the petitioner is also not otherwise entitled to compassionate appointment. Her father is a retired employee, who has been enjoying adequate pensionary and retiral benefits. The death benefits of the deceased mother was also paid to the family. The petitioner is the only child.

This court is of the view that such reasons have not been assigned in the order impugned. The only ground of rejection was the marriage of the petitioner. The matter requires a further probe to ascertain the actual dependency and the financial condition of the family as per the scheme. Whether the family could tide over the crisis faced on account of the death of an employee is the prime consideration.

In this case, a probe is necessary in order to ascertain whether the petitioner was married at the time of death and secondly, whether the petitioner, even if married at the time of death of her mother was a dependent on the mother's income and whether the formula in order to ascertain the financial condition of the family, as per the scheme, would fit into the case of the petitioner. The income of the family, the death benefit which was provided to the family etc. are the yardsticks to decide whether the family had met the eligibility criteria of having insufficient income to get by. On these grounds the issue of compassionate appointment is to be decided, strictly according to the scheme.

Such points ought to have been dealt with by the authority, instead of simply rejecting the case of the petitioner on the ground that she was married.

With such observations, the writ petition is disposed of. The District Library Officer and the Secretary, Local Library Authority will decide the matter afresh, by making an enquiry as directed hereinabove in the light of the decisions of the Hon'ble Division Bench. The petitioner or her learned Advocate will be heard.

A reasoned order shall be passed within a period of three months from the date communication of the order. The same shall be communicated within the aforementioned period.

The writ petition is disposed of. The order impugned is set aside.

There shall be no order as to costs.

Parties are to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)