

16.01.2024
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WPCT 8 of 2024
Shri Nikhil Hela
– *Versus* –
Union of India & Others

Mr. Phatick Chandra Das,
Ms. Tithi Paul
... for the Petitioner.

Mr. Atarup Banerjee,
Ms. Kakali Dutta
.... for the Respondents.

The present writ petition has been preferred challenging an order dated 20th July, 2023 passed by the learned Tribunal in the original application, being O.A. 350/01512/2022.

Mr. Das, learned advocate appearing for the petitioner submits that the issue of penury was not taken into consideration by the learned Tribunal while rejecting the petitioner's claim for compassionate appointment by an order dated 21st January, 2022.

According to him, the impugned order was passed by the learned Tribunal without granting any weightage to the order passed at the time of admission of the application on 29th August, 2022. The arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the relevant issues and such infirmity warrants interference of this Court.

Drawing our attention to the order impugned in the original application, Mr. Das submits that the petitioner's claim was illegally turned down though there was no bar towards submission of a second application by a dependent of the deceased.

Per contra, Mr. Banerjee, learned advocate appearing for the respondents submits that after the demise of the petitioner's father, namely, Ashok Hela, his mother applied for grant of compassionate appointment and such prayer was allowed. After demise of his mother, namely, Anita Hela on 19th June, 2015, his elder brother submitted an application for compassionate appointment. The same was considered and rejected by an order dated 16th August, 2017 *inter alia* on the ground that the school which issued him certificate could not be located. The said order was not challenged, instead the petitioner, who is the younger son of the deceased, submitted an application for compassionate appointment but such prayer was turned down by a reasoned order dated 21st January, 2022 and as such the same was rightly not interfered with by the learned Tribunal.

Mr. Banerjee further submits that compassionate appointment is not a vested right and the issue of penury needs to be considered strictly on the basis of the scheme towards compassionate appointment. The petitioner could not fulfil the

conditions of the scheme towards grant of compassionate appointment.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It is well settled that compassionate appointment is not a vested right and such claim needs to be considered in strict consonance with the scheme of the employer. The rationale behind the scheme is to provide immediate succour to the family of the deceased. In the present case, the elder brother of the petitioner approached the authorities for grant of compassionate appointment. Such prayer was considered and rejected. The said order was not challenged. The scheme towards compassionate appointment *inter alia* provides that the candidates from the families of the deceased government servants are required to apply only once for appointment on compassionate ground. Such provision admittedly does not stand fulfilled in the instant case.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned.

Accordingly, the writ petition, being WPCT 8 of 2024 is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)