

26
03.05.2024
Ct. No. 11
Jayanta

WP.CT 37 of 2024

Smritilekha Ghosh (Samanta)
vs
Union of India & Ors.

Mr. Ayan Banerjee
Mr. Soumo Chaudhury
Mr. Suman Banerjee
..... For the Petitioner.

Mr. R. N. Bag
Mr. Sarda Sha
Ms. Sharmita Datta Das
Ms. Anasuya Bhattacharjee
..... For the Respondents.

The present writ petition has been preferred challenging an order dated 13th September, 2023 passed in the original application, being O.A. 350/01036/2020. By the said order the petitioner's challenge against the order 28th August, 2020 passed by the competent authority of the Railways rejecting her claim for compensate appointment, was turned down.

Mr. Banerjee, learned advocate appearing for the petitioner submits that the concerned respondent while rejecting the petitioner's claim for compassionate appointment did not take note of the fact that she was the sole bread-earner of the family at the time of death of her father. The respondents' policy mandates grant of compassionate appointment to a married daughter, who will be the bread-earner of the family of the deceased.

His next argument is that the respondents illegally rejected the petitioner's claim on a purported ground that she had availed the settlement dues of the deceased though it is well-settled that grant of pensionary benefits cannot be a bar towards consideration of the claim for compassionate appointment.

He argues the fact situation as was prevailing on the date of death of the deceased was not taken into consideration by the concerned respondent while rejecting the petitioner's claim. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the said issues. Such infirmity warrants interference of the Court.

Per contra Mr. Bag, learned advocate appearing for the respondents submits that the petitioner's father expired on 4th October, 2013. At that juncture, the petitioner was married. In fact, the petitioner's marriage was solemnized on 29th January, 2012. On the date of death, the petitioner was residing at her in-laws' family and she was not dependent upon the income of the deceased. In view thereof, the respondents had rightly rejected the petitioner's claim as such the learned Tribunal did not interfere with such decision.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Records would reveal that the petitioner's father, namely, Ranapratap Samanta (in short, Ranapratap) died-in-harness on 4th October, 2013 leaving behind his mother, namely, Pratima Samanta (in short, Pratima) and the petitioner herein, namely, Smritilekha Ghosh (Samanta) (in short, Smritilekha). The petitioner was born out of the wedlock of Ranapratap and Chabi Samanta, the first wife of the deceased. Chabi predeceased Ranapratap. Subsequently thereto, Ranapratap married one Malati Samanta (in short, Malati), who left the deceased's family. Pratima thereafter expired on 14th June, 2017. There was a dispute as regards disbursement of pensionary benefits but on the basis of the order passed by this Court in WP.CT 28 of 2019, the pensionary benefits were disbursed in favour of the petitioner. While disposing of the said writ petition, the Court also granted liberty to the petitioner to approach the learned Tribunal as regards her claim for compassionate appointment. Pursuant thereto, the petitioner approached the learned Tribunal and her claim was relegated to the authorities for consideration. Thereafter, the competent authority passed an order of 20th August, 2020 rejecting the petitioner's claim. The said order was assailed before the learned Tribunal and the original application was dismissed by an order dated 10th April 2022. Challenging the same, the petitioner again approached this Court by a writ petition, being

WP.CT. 96 of 2022. By an order dated 4th January, 2023, the said writ petition was disposed of setting aside the order dated 10th April 2022 and remitting the matter to the learned Tribunal for re-reconsideration of the petitioner's claim. Pursuant to such direction the order impugned in the present writ petition has been passed.

Indisputably the petitioner was not residing with her father on the date of his death, i. e., on 4th October, 2013. Her marriage was solemnized on 29th January, 2012 and she was residing in her in-laws' family.

The argument of Mr. Banerjee that the petitioner was the bread-earner of the family after the death of her father since she was the only person to look after her grandmother, who was surviving at that juncture, it needs to be presumed that she was the bread-earner, is not acceptable to us.

Appointment of compassionate ground cannot be claimed as a matter of right. The object of compassionate appointment is to mitigate the hardship of the deceased family due to the sudden loss of the bread earner.

Ranapratap died-in-harness on 4th October, 2013 and on the said date, the petitioner admittedly was not dependent upon her father's income. Pratima had also expired on 14th June, 2017. Pratima thus survived for a substantial period of time after her son's death and the petitioner was also residing in her in-laws' house. The

idea of compassionate appointment is not to provide for endless compassion.

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 WP.CT. 37 of 2024 is dismissed.

There shall, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)