

01.08.2024
Item No.13
Court No.11
Avijit Mitra

WP.ST 29 of 2024

In re: An application under Article 226 of the Constitution of India;

And

Smt. Bina Halder & anr.
Versus
State of West Bengal & ors.

Mr. Achyut Basu,
Ms. Punam Basu,
Mr. Rupchand Chakraborty,
Mr. Anirban Saha,
Mr. Srikumar Chakraborty
...for the petitioners
Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Rajat Dutta
...for the State respondents

Affidavit-of-service filed by the petitioners be kept on record.

The present writ petition has been preferred challenging an order dated 25th April, 2022 passed by the learned Tribunal in the original application being (in short, OA), being OA 933 of 2021.

Mr. Basu, learned advocate appearing for the petitioners submits that the petitioners' prayer was refused by the learned Tribunal without calling for any affidavit and without considering the arguments, as advanced, the learned Tribunal dismissed the OA by a cryptic order.

He argues that on 5th November, 2021, the petitioner no. 1 submitted a representation to the respondents for reconsideration of the claim towards

compassionate appointment of the petitioner no. 2. Having not considered the said representation, the respondents failed to discharge their statutory obligations and in view thereof, the petitioners had been the worst sufferers.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents denies and disputes the contention of the petitioners and submits that there was no obligation on the part of the respondents to consider the claim of the petitioner no.2 for compassionate appointment since he was a minor at the time of death of his father. In view thereof, the competent authority rightly rejected such claim by an order dated 20th January, 2015. The said order was not assailed by the petitioners. About five years thereafter, a fresh representation was submitted for reconsideration and as such, the learned Tribunal has rightly rejected the OA.

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

Indisputably, the petitioner no.2 was a minor on the date of the death of his father. The application in prescribed proforma submitted on 19th June, 2012 by the petitioner no. 2, upon attaining majority, was rejected by an order dated 20th January, 2015 in view of the prevailing government circulars. The said order dated 20th

January, 2015 was, however, not challenged by the petitioners and an application for reconsideration was submitted about six years thereafter on 5th November, 2021 and that too without explaining the delay.

In the said conspectus, the learned Tribunal refused to exercise discretion in favour of the petitioners and dismissed the OA.

We do not find any infirmity in the said order and in view thereof, no interference is called in the present writ petition and the same is, accordingly, disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

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