

31.07.2024
Ct. No. 14
Sl. No.55
KB

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 4171 of 2024

**Rahul Mitra
-versus
The State of West Bengal & Ors.**

Mr. Ashok Kumar Sarkar
... For the petitioner.

Mr. Avishek Prasad
... For the DPSC, Malda.

Mr. Shamim ul Bari
Mr. Rezaul Hossain
... For the State.

Mr. Partha Prait Roy
Mr. Sarbananda Sanyal
... For the Pvt. Respondent.

Affidavit of service filed in Court today be retained with the record.

The father of the petitioner was a primary school teacher. He died-in-harness on 10th January, 2013. The petitioner was a minor at that point of time. Prior to the death of the teacher, the mother of the petitioner got divorced from his father.

The employee re-married in the year 2008. On the death of the employee in the month of January, 2013, the widow of the employee sought for family pension and appointment on compassionate ground.

The authority considered the prayer of the widow and being found eligible for appointment, appointed the widow on compassionate ground. Pension of the employee was also disbursed in favour of the widow.

The death benefits including the provident fund and gratuity was, however, disbursed in equal share between the widow of the deceased employee and the petitioner being the son of the deceased employee.

The petitioner attained majority in the year 2016 and applied before the authority for giving appointment on compassionate ground.

As the prayer of the petitioner for being appointed on compassionate ground has not been considered by the authority, the instant writ petition has been filed.

From the facts as narrated hereinabove, it is evident that on the date of death of the employee the petitioner was a minor. He did not have any right of appointment at the time of death of his father. He attained majority in the year 2016. By the said time, the prayer of the widow of the employee for providing compassionate appointment was considered and as she was found eligible for appointment, she was duly appointed.

The prescribed time period for filing an application for obtaining compassionate appointment is

two years. Even during the two years' time period after the death of the employee, the petitioner was a minor.

Law relating to compassionate appointment is very well settled by various pronouncements of this Court and the Hon'ble Supreme Court. Compassionate appointment is meant for providing immediate financial relief to the family of the deceased who have lost their bread winner. Compassionate appointment can never be claimed as a matter of right.

There is no scope for reservation of vacancy for providing compassionate appointment in favour of a minor heir till he attains majority.

In the instant case, the petitioner attained majority more than three years after the death of the teacher. In the meantime, the widow's right to get employment stood crystallized. The said right cannot be questioned at such a delayed point of time. There is hardly any scope for providing compassionate appointment to the petitioner at this stage.

The writ petition, accordingly, fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)