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08.08.2024
Ct. No. 11
rrc

WPCT 45 of 2024
(Jyotirmoy Ghatak Vs. Union of India & Ors.)

Mr. Krishnendu Bera
Ms. Debolina Chakraborty
.... For the petitioner

Ms. Rashmi Bothra
.... For the respondent

The present writ petition challenges the order dated 16th November, 2023 passed in Original Application (in short, OA), *vide* no. 350/00736/2020. By that order, the learned Tribunal dismissed the OA upholding the orders dated 15th March, 2013 and 28th April, 2016 issued by the respondent no.4, which refused to accept the petitioner's request for compassionate appointment.

Mr. Bera, learned advocate, representing the petitioner, submits that the petitioner's elder brother, Joydeep Ghatak died-in- harness on 13th December, 1999 while serving as Inspector in the Office of the Collector of Central Excise, Calcutta. Due to untimely demise of the sole bread-earner, the the deceased employee's family plunged into penury. The petitioner, being an eligible candidate, applied for employment assistance to help the family overcome the financial crisis.

Referring to certain documents, he submits that the Joint Commissioner (P&V) in his letter dated 4th April, 2001 categorically acknowledged that the Commissioner of Central Excise, Calcutta – II Committee had approved the case of the petitioner for appointment in Group – 'C' post. Between 2001

to 2008, the petitioner submitted multiple representations to the respondent authority urging them to act on the decision of the Committee but to no avail.

From the information provided to the petitioner in response to an application made under the Right to Information Act, as detailed in a letter *vide.* dated 27.07.2009, it transpired that the last DSC meeting was held on 8th June 2001. Based on the resolutions adopted at that meeting, five applicants were granted compassionate appointments. However, the petitioner's case could not be considered as no file was placed before the Committee.

However, by a communication dated 15th March 2013, respondent No. 3 informed the petitioner that the departmental screening committee had determined that the petitioner's request for appointment could not be considered due to several factors, namely, the family had received a death benefit of Rs. 3,01,636, the deceased employee's father was drawing a family pension of Rs. 5,185 per month, the family has a self-owned house on a plot of land measuring 3.5 cottahs, the petitioner, being self-employed, earned Rs. 5,000 per month, and the family had been surviving for a significant period. Similarly, by another communication dated 28th April 2016, respondent No. 3 informed the petitioner that the screening committee had refused to accept the request on the grounds that the petitioner was already married, and according to the instructions, a married brother is ineligible for compassionate appointment.

The rejection of the petitioner's request for compassionate appointment by the committee on two successive occasions

compelled the petitioner to knock on the door of the learned Tribunal with OA 736 of 2020.

The main thrust of the argument of Mr. Bera was that the delay caused due to inaction and/or negligence on the part of the respondents should not be attributed to the petitioner. He further argues that grant of death benefit and the family pension cannot be treated to be the valid grounds for rejection of the petitioner's request for compassionate appointment. According to him, the respondents failed to properly consider the family's indigent condition and as such, arrived at an erroneous conclusion. He contends that such issues were raised before the learned Tribunal but it glossed over those issues and did not return any finding on the same. Instead, the OA has been dismissed paraphrasing some judgments of the Hon'ble Supreme Court. This infirmity warrants interference with the order challenged in the writ petition.

In response, Ms. Bothra, learned advocate, representing the respondents, argues that the petitioner's claim was considered by the screening committee twice and after a proper assessment of the family's indigent condition, the petitioner's claim were rejected. She further argues that being married, the petitioner is ineligible for a compassionate appointment. She asserts that the committee rightly negated the petitioner's claim and that the learned Tribunal, by passing a reasoned order, dismissed the OA and as such, there is no basis to interfere with the order impugned in the writ petition.

Heard the learned advocates appearing for the respective parties. Perused the materials on records.

Admittedly, the family received a death benefit and the father of the deceased employee drew family pension during his life time. The petitioner is a self-employed individual and is married. The family owns a housing standing on a plot of land measuring 3.5 cottahs. After assessing the family's indigent condition, the screening committee denied the petitioner's claim. The employee expired in 1999 and the Committee approved the petitioner's case for grant of appointment in Group-C post in 2001 but the petitioner took nearly 19 years to approach the learned Tribunal. It is well established principle that the underlying object of the scheme of compassionate to provide immediate relief to bereaved family to mitigate the sudden financial crisis that arises following the untimely death of its sole bread earner. Therefore, the sense of immediacy has lost its significance.

Having regard to these facts and circumstances, although we are sympathetic to the petitioner, it would not be equitable to direct the respondents to provide employment on compassionate grounds. Therefore, the committee has rightly denied the petitioner's claim and that the learned Tribunal, after assessing these factual aspects, has arrived at a categorical finding. We do not find any infirmity in the order currently under scrutiny in this writ petition that would warrant interference with the same.

With the above observations, the writ petition is dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official website of this Court.

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