

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Partha Sarathi Sen, J.

**FMA 695 of 2021
with
IA NO: CAN 1 of 2021

Union of India & Ors.
VS.
*Krishna Kumar Sharma***

For the Appellants : Mr. Dayashankar Mishra, Advocate

For the Respondent: Mr. Subhashish Sengupta,
Mr. Suman Majumder, Advocates

Heard on & Judgement on : July 10, 2024

Partha Sarathi Sen, J.

- 1.** In this appeal, the order dated January 18, 2021 as passed by the learned Single Judge in WPA 1192 of 2020 has been assailed.
- 2.** By the impugned order, learned Single Bench directed the respondent authorities of the said writ petition to give appointment to the writ petitioner on compassionate ground.
- 3.** Admittedly, one Mukesh Sharma was a Constable under the RPF attached with Chittaranjan locomotive works who died-in-harness and intestate on September 22, 2012 leaving behind his parents as well as the

FMA 695 of 2021
with
IA NO: CAN 1 of 2021

writ petitioner who is the private respondent before us as his legal heirs within the meaning of Hindu Successions Act, 1956. By a reasoned order dated July 12, 2019, the General Manager (P) East Central Railway, Hajipur (the respondent no. 4 herein) rejected the representation of the writ petitioner holding that there was no material to substantiate that the writ petitioner was dependent upon his younger brother who died-in-harness. In doing so, the said authority relied upon the observations of the Welfare Inspector and took a contrary view to the recommendation of the Welfare Inspector.

4. In course of hearing of the appeal, learned advocate for the appellants took us to the report of the Welfare Inspector for compassionate appointment. It is submitted that, while assessing the genuineness of the claim of the writ petitioner, the Welfare Inspector though recommended for compassionate appointment of the writ petitioner but in such report there is no whisper with regard to the alleged dependency of the writ petitioner upon his younger brother who died-in-harness. It is submitted further on behalf of the appellants that the learned Single Judge while passing the impugned order has failed to visualize the true implication of the report of the Welfare Inspector, vis-à-vis, the finding of the respondent no. 4 in its reasoned order dated July 12, 2019. It is further submitted that the learned Single Judge has probably misconstrued the contents of the reasoned order and, thus, passed a favourable order which is required to be set aside by allowing the instant appeal.

5. Per contra, learned advocate for the private respondent/writ petitioner submitted before this Court that there are reports of the Welfare Officer which would reveal that after the death of the RPF employee concerned, the financial condition of his family members had been

FMA 695 of 2021
with
IA NO: CAN 1 of 2021

deteriorated like anything and there are sufficient materials that the present private respondent/writ petitioner had a meagre income out of his agricultural labour work and he practically depends upon his parents.

6. It is further contended on behalf of the private respondent/writ petitioner that the learned Single Judge has rightly observed that the present writ petitioner was fully dependent upon his younger brother who died-in-harness and, thus, as per Rule as quoted in the impugned judgment, the writ petitioner is entitled to a favourable order which is why the learned Single Judge has rightly directed the authorities concerned to give compassionate appointment.

7. On perusal of the entire materials as placed before us and after hearing the learned counsels for the contending parties and also giving our due consideration over the contents of the impugned judgment, it appears to us that the learned Single Judge while passing the impugned order has duly considered the family composition of the writ petitioner and their financial status particularly after the death of the employee concerned who died-in-harness.

8. Learned Single Judge has rightly observed that there are reports of Welfare Inspector which would reveal clearly that the income of the present writ petitioner/private respondent herein is really meagre and he has a small landed property to the extent of 8 decimals and that too, in the name of his father and the writ petitioner/private respondent herein is earning his livelihood by way of daily labour work and he is dependent upon his parents. We also noticed that the learned Single Judge in the impugned judgment has come to a finding that the reasoned order of General Manager(P) of Central Railway is absolutely faulty and on the

FMA 695 of 2021
with
IA NO: CAN 1 of 2021

contrary the same is based on non-application of mind with regard to true spirit and implication of the report of the Welfare Officer.

9. We also find that no materials have been placed before us even during hearing of the appeal that the present private respondent/writ petitioner has any independent income of his own which is sufficient for the sustenance either of himself or of his parents who admittedly were dependent upon the deceased employee.

10. In view of the discussions made herein, we find no infirmity in the order impugned.

11. Accordingly, the instant appeal being FMA 695 of 2021 along with connected application being IA NO: CAN 1 of 2021 are dismissed. There shall be no order as to costs.

12. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Partha Sarathi Sen, J.)

13. I agree.

(Debangsu Basak, J.)

Da