

M/L.14.
August 5, 2024.
MNS.

WPA No. 8091 of 2023

Newsad Ali @ Newsad Sk @ Naosad Sekh
Vs.
The State of West Bengal and Others

Mr. Agniswar Chowdhury

... for the petitioner.

Mr. Tapan Kumar Mukherjee,
Mr. Somnath Naskar

...for the State.

This is a second round of litigation between the parties. The prayer of the petitioner is for compassionate appointment of his son. It is alleged that the petitioner has made repeated representations since July 25, 2011 for being declared as medically unfit and to have his son appointed instead and placed in the West Bengal National Volunteer Force.

In an earlier round of litigation, pursuant to an order dated November 17, 2022, the respondent authorities had considered the grievance of the petitioner and by a reasoned order dated January 19, 2023 rejected the prayer of the petitioner for compassionate appointment on the ground that the petitioner was demobilized from the strength of WB NVF on January 12, 2014 at the age of 60. Pursuant to the prevalent provisions and more particularly Memo No. 1794-CD/NVF-Misc-5/2008 dated September 15, 2008 prior to grant of any compassionate

appointment, an employee must have at least 2 (two) years of service left before he reaches the age of 60 i.e. date of permanent de-mobilization.

It is alleged on behalf of the petitioner that no Medical Board had been constituted and the petitioner is entitled to be medically examined. The respondent authorities are also obliged to conduct a medical examination of the petitioner before passing the impugned order. On this ground and for the reason that the respondent-Medical College and Hospital had failed to submit any report, the petitioner is entitled to be examined and the prayer for compassionate appointment of the son of the petitioner be allowed.

On behalf of the respondent authorities, it is contended that in view of the Government Order dated September 15, 2008 and in view of the fact that the petitioner had worked till the age of 60 years, there is no question of compassionate appointment.

An indisputable fact which is evident is that the petitioner had completed his services on January 12, 2014 as WBNVF upon attaining the age of 60 years. There was no complaint of ill health or incapacity on the part of the petitioner in completing his service. His name was subsequently struck off from the effective strength of WBNVF vide Memo No. 15/A/127/3 dated

February 5, 2014. It is an admitted fact that the essential criteria of having two years left to reach the age of 60 year in order to obtain compassionate appointment has not been fulfilled by the petitioner. This fact is also reiterated in the order dated January 19, 2023 passed by the authorities.

In view of the fact that the petitioner had discharged his duties till the age of 60 years and withdrawn full wages until his demobilization, there is no question of granting any relief as sought for by the petitioner. The order dated January 19, 2023 passed by the authorities is reasoned and there is no ground to interfere with the same. There is no illegality nor perversity which the petitioner has been able to demonstrate warranting any interference with the impugned order.

In such circumstances, there is no merit in the writ petition. WPA No. 8091 of 2023 stands dismissed.

However, there shall be no order as to costs.

(Ravi Krishan Kapur, J.)