

D/L
Item No. 06
16.04.2024
KOLE

**MAT 586 of 2024
With
IA CAN 1 of 2024**

**Sri Bidesh Bera
-Vs.-
The State of West Bengal & Ors.**

*Mr. Amit Baran Dash,
Ms. Ankana Sarkar,*

...for the appellant.

*Mr. Lalit Mohan Mahata, AGP,
Mr. Z. Haque,*

...for the State.

By consent of the parties, the appeal and the connected application are taken up for hearing together.

A judgment and order dated February 26, 2024, whereby the appellant's writ petition being WPA 20266 of 2023 was dismissed by a learned Judge of this Court, is under challenge in this appeal at the instance of the writ petitioner.

The facts of the case are not in dispute. The appellant's father was an employee of Paldhui Gram Panchayat in Purba Medinipur. He died in harness on September 24, 1989. The appellant was a minor at that time. His mother applied to the Gram Panchayat for giving a job to him after he attains majority.

The appellant attained majority in the year 2007. Thereafter, he applied for being appointed on compassionate ground. The prayer stood rejected by an order dated May 12, 2023, passed by the Assistant Secretary to the Government of West Bengal.

Challenging such rejection order, the appellant approached the learned Single Judge. The learned Judge dismissed the writ petition with the following observations:-

“The issue of appointment on compassionate ground has been settled by various decisions passed by this Court and also by the Hon’ble Supreme Court. The very idea for providing compassionate appointment is to enable the family of the deceased employee to tide over the immediate financial crisis faced on the death of the bread earner. In the present case, the father of the petitioner expired in the year, 1989. As such at a delayed date, there is hardly any scope for showing compassion to the petitioner. The immediacy in providing the job on compassionate ground does not remain after more than three decades of death of the employee.

Moreover, at the time of death of his father, the petitioner was a minor. There is no scope for reservation of vacancy for providing appointment at a later date to an heir of a deceased employee after he attains majority”.

Being aggrieved, the writ petitioner is before us by way of this appeal.

Learned Advocate for the appellant says that immediately upon attaining majority the appellant put in the requisite application for being appointed on compassionate ground. In the year 2013, a report dated August 16, 2013 was filed by the concerned Joint Block Development Officer after enquiry by a three man commission as regards the financial condition of the appellant. The report recorded that the appellant’s family “live on hand to mouth by means of physical labour and BPL category”. The operative portion of the report reads as follows:-

“The filled in Application Form in respect of Sri Bidesh Bera, S/o-Late Rabindranath Bera, Ex-Chowkidar, Paldhui Gram Panchayat under Ramnagar-II Development Block especially in Part – I & Part – II are examined and found correct. The financial condition of the family of the deceased employee is not sufficient to maintain his dependents. The claim is genuine. The appellant may be recommended for favour consideration for appointment on Compassionate Ground on die-in-harness category.”

Learned Advocate says that the said report was not considered at all by the authority while rejecting the appellant’s prayer for compassionate appointment. Further, the authority sat on the application till 2023 before rejecting it. The Government’s report itself shows that the appellant’s family is extremely poor and can hardly make two ends meet. This is a fit case for granting compassionate appointment to the appellant.

Mr. Mahata, learned Advocate for the State rightly points out that the rationale behind granting compassionate appointment is to enable the family of the deceased employee to tide over immediate financial crisis that the family may be faced with by reason of the sudden death of the employee who may have been the sole bread earner of the family. With the passage of time from the date of death of the concerned employee, appointment on compassionate ground becomes more and more unjustifiable.

We have considered the rival contentions of the parties. Appointment on compassionate ground is contemplated to enable the family of an employee who dies in harness, to overcome the sudden financial crunch that the

family may be experiencing, particularly if the deceased person was the only earning member of the family. This mode of appointment is an exception to the general rules of recruitment in government service, and should be resorted to sparingly and in genuine cases. Compassionate appointment is granted to help the family members of the deceased employee to deal with the immediate financial predicament that may be staring at them. Therefore, granting appointment to a family member on compassionate ground, a good number of years after the death of the concerned employee, is hardly justifiable.

In the present case, the appellant was about a year or so old when his father died in harness. His mother made an application for granting compassionate appointment to him as and when he attains majority. The learned Judge rightly observed that there is no policy of reserving a seat for a person in such a case till he attains majority. After 34 years of the death of the concerned employee, it would hardly be justified to grant compassionate appointment to his son

It was argued that the appellant applied immediately upon attaining majority in 2007. It was the government which slept over the matter and rejected the application only in 2023. This also does not improve the appellant's case to any appreciable extent, except that it once again brings to the forefront the tardy and recalcitrant attitude of some of the government officers in deciding valuable rights of citizens one way or the other. In our view, in 2007 also, the appellant was not entitled to a job on compassionate ground,

about 18 years having elapsed in the meantime, from the date of death of his father. However, we are constrained to express our strong disapproval of the manner in which the appellant's application was kept pending for 16 years by the concerned government department. We deprecate the indolence and inefficiency of the concerned government officers.

Although we may sympathize with the appellant, we find no error in the judgment and order of the learned Single Judge and the same does not call for interference.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted by the respondents.

The appeal and the connected application, accordingly, fail and are dismissed. There will be no order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Arijit Banerjee, J.)

(Prasenjit Biswas, J.)