

WPA 9275 of 2021

**Mousumi Goswami Bhattacharya
Vs.
State of West Bengal & Ors.**

**Mr. Siddhartha Roy,
Mr. Indranath Mitra.
... for the petitioner**

**Mr. Supriya Chattopadhyay, Id. A.G.P.,
Mr. Mrinal Kanti Ghosh.
... for the State**

1. The writ petitioner is the legal heir of the erstwhile Group-D employee of the school who died in harness.
2. The father of the petitioner died on January 10, 2019. Thereafter, on April 18, 2019, an application was made by the present petitioner seeking appointment in died-in-harness category in place of her deceased father.
3. The District Inspector of Schools, Secondary Education, Purba Bardhaman by dint of his order dated February 12, 2021, has declined petitioner's prayer for appointment on died-in-harness category. The said order of the District Inspector of Schools, Secondary Education, Purba Bardhaman is under challenge in this writ petition.
4. The Court can notice the sole ground for rejection of petitioner's prayer, as mentioned in the said order dated February 12, 2021 is that the petitioner being a married daughter of late deceased Group-D staff of Madhyamgram Prama Moyee High School, could not be considered for appointment in died-in-harness

category, as she was married on the date of death of the said employee of the school.

5. The Court finds the said order of the District Inspector of Schools, Secondary Education, Purba Bardhaman dated February 12, 2021 to be not in conformity with the law already settled by the Hon'ble Full Bench of this Court, in the judgment of ***Purnima Das (The State of West Bengal & Ors. Vs. Purnima Das & Ors.)*** reported in ***(2017) 4 CHN (Cal) 362***.
6. The Hon'ble Full Bench by dint of the said judgment has categorically held that there can be made no distinction or discrimination on the ground of marriage of the legal heir of a deceased employee in case of her being appointed in died-in-harness category, on compassionate ground.
7. The Court has categorically held that otherwise the same would be in violation of the constitutional guarantees as provided under Articles 14 and 16 thereof. Thus, a married daughter has been treated similarly with any of the legal heir of a person and the ground of a daughter being married to be disqualifying factor for her to be considered, to be appointed in died-in-harness category, has thus being overruled.
8. The Hon'ble Full Bench in the said judgment has set aside the relevant provisions of the Rule discriminating the married daughter to be considered for appointment on compassionate ground.
9. In the facts and circumstances of the present case, the proposition and law as settled by the Hon'ble Full

Bench of this Court in the judgment of ***Purnima Das (Supra)*** is squarely applied.

10. In such view of the fact, this Court is unhesitant to find that the impugned order dated February 12, 2021 is not in conformity with the law, is illegal and thus liable to be set aside.
11. Hence, the impugned order dated February 12, 2021 passed by the District Inspector of Schools, Secondary Education, Purba Bardhaman is set aside.
12. Since there is no other ground for declining the prayer of the petitioner, as mentioned in the said order, it appears that the fact finding authority has already found the other criteria for qualifying to be appointed in died-in-harness category in case of the present petitioner, to be existent there.
13. Therefore, the Court after setting aside the impugned order dated February 12, 2021 is inclined to direct the respondent no. 4 to grant appointment to the writ petitioner on compassionate ground with immediate effect.
14. Since no affidavits are called for, allegations made in the writ petition, are deemed to have been denied by the respondents.
15. This writ petition being WPA No. 9275 of 2021 is disposed of, along with the pending applications, if any.
16. Urgent Photostat certified copy of this order duly downloaded from the official website of this Court upon compliance all legal formalities.

(Rai Chattopadhyay, J.)