

04.07.2024
Court No.13
Item No.9
pk

WPA 9529 of 2021

**Deviprasad Das
Vs.
The State of West Bengal & Ors.**

Mr. Tanmay Chowdhury
Ms. Ritoprita Ghosh

... For the petitioner.

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta

... For the State.

Mr. Ratul Biswas

... For the WBBPE.

Mr. Saibal Acharyya,
Mr. T. Mondal

... For the DPSC, Purba Bardhaman.

1. Affidavit of service filed in Court is taken on record.
2. The writ petitioner challenges an order dated 11.12.2020 passed by the Deputy Director of School Education (Law), West Bengal rejecting his prayer for compassionate employment on third occasion.
3. Earlier two orders dated 22.04.2014 passed in W. P. No.10729(W) of 2014 and dated 13.02.2020 passed in W. P. No. 474(W) of 2020 were set aside by the Co-ordinate Benches of this Court.
4. The impugned order was passed pursuant to the directions of this Court in the last writ petition. The prayer for compassionate employment of the petitioner in the impugned order was rejected primarily on the ground that the family income of the petitioner (Rs.16124/-) was higher than that of Group-D staff as on 04.11.2010.

5. The Deputy Director of School Education (Law), West Bengal and the Commissioner of School Education, West Bengal have rightly relied upon the decisions of the Supreme Court in the cases of **Govind Prakash Verma Vs. Life Insurance Corporation of India and others** reported in **(2005) 10 SCC 289** and **Mumtaz Yunus Mulani Vs. State of Maharashtra and others** reported in **(2008) 11 SCC 384** and the case of **Union of India and another Vs. Shashank Goswami and another** reported in **AIR 2012 SC 2294**.

6. The upshot of the aforesaid judgements is that the pensionary and terminal benefits of the deceased received by a family could be considered while deciding the family income of the deceased employee.

7. It is seen that more than 14 years have passed after the death of the petitioner's father.

8. Analyzing of cases and decisions till date, the Supreme Court in the recent decision of the **State of West Bengal Vs. Debabrata Tewari** reported in **2023 Live Law (SC) 175** has held as follows:

(a) Compassionate employment is not a regular source of employment. It is an exception thereto.

(b) Compassionate employment is aimed at addressing immediate financial crisis that

would befall the family of the deceased upon the death of the sole breadwinner.

(c) Compassionate employment is aimed at preventing a family from falling into financial crisis, starvation and penury upon the death of the sole breadwinner.

(d) While considering the cases for compassionate employment, expediency and urgency must be shown both by the applicant as well as the State.

(e) The immediacy of the financial crisis is extinguished by efflux of time and compassionate employment ought not to be granted upon expiry of immediacy period.

9. In the instant case, it is seen that the petitioner's application for compassionate employment was rejected for the first time in 2013. The respondents therefore acted with promptness in dealing with the application of the petitioner filed in time. The respondents found that he was not qualified to be appointed as Assistant Teacher in the primary section. They had therefore referred the matter for consideration of his engagement in the Group-C post in the secondary section. Curiously, the primary authorities did not venture to look into the financial status of the family.

10. The secondary section assessed the family income of the petitioner but also found that the petitioner acquired higher qualification like TET, D.El. Ed. beyond the period of two years of the death of his father. He therefore could not be appointed on compassionate ground even on a Group-C post in the secondary section of the State.

11. In the impugned order, the entire object and purpose and applicable laws with regard to compassionate employment have been correctly discussed and applied by the Commissioner of School Education, West Bengal and the Deputy Director of School Education (Law), West Bengal.

12. In view of the dicta of the Hon'ble Supreme Court in the case of **Debabrata Tewari (supra)**, no infirmity is found in the impugned order therefore calls for no interference.

13. Hence, the writ petition is dismissed.

14. There will be no order as to costs.

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

(Rajasekhar Mantha, J.)