

07.08.2024
M.L.49
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10292 of 2024

Tapan Porey
Vs.
The State of West Bengal & Ors.

Mr. Lakshman Chandra Halder
.....for the petitioner.

Ms. Deblina Chattaraj
.....for WBTC.

The petitioner's father was an employee of Calcutta Tramways Company (1978) Ltd. (in short "CTC") now known as West Bengal Transport Corporation (in short "WBTC") who died-in-harness on 5th July, 2005. The widow of the employee, being the mother of the petitioner had made an application for compassionate appointment which was not in proper form. So, after lapse of about few years, WBTC advised the widow to make an application in a proper format which was duly made. At the time when such application remained pending, the widow also died on 10th August, 2018. The petitioner on the date of death of his mother renewed the prayer for compassionate appointment to be given to him. The petitioner says that nothing has been communicated to the petitioner in respect of his application for compassionate appointment.

Compassionate appointment has long been clarified to be one available not as a matter of right but is provided under a scheme that may be prevailing in the employer with the object to tide over the sudden financial hardship arising out of the death of the sole bread-earner. The whole object is to provide immediate financial support. The compassionate appointment is also available strictly in accordance with the scheme, if any for the same, framed by the employer.

In the instant case, as pointed out by the learned advocate representing WBTC that for the death which occurred in the year 2005, the claim for compassionate appointment made in the year 2018 or even thereafter. The immediate hardship may not be subsisting after lapse of about 19 years from the date of death of the employee.

It is equally true that ignorance, lack of education and proper exposure may find a family to be not properly aware of the rights available to the deceased employee.

Learned advocate for WBTC is also correct when she says that the approach for compassionate appointment has been made by the petitioner at the belated stage. However, the prayer that the writ petition should not be entertained cannot be acceded.

After hearing the parties and considering the materials on record, there is no dispute as to delay in approaching the competent authority. However, at the same time the petitioner, if did not receive any benefit available to him on the death of his father, the petitioner can claim his entitlement which includes the right to be considered for compassionate appointment.

In the instant case, CTC and WBTC had and still have a scheme for compassionate appointment.

In the aforesaid facts and circumstances, the petitioner's representation dated 30th August, 2023, which appears at page 25 of the writ petition, is directed to be disposed of by a reasoned order within a period of 3 months from date by the respondent no. 2.

The order is passed in the presence of the learned advocate for the respondent no.2, and as such, no further notice is required to be given. However, by way of abundant caution, the petitioner may serve a copy of this order on the respondent no.2.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)