

25-06-2024
ct no. 13
Sl. 12
sp

WPA 10568 of 2024
Bijaya Das
-Versus-

The State of West Bengal & Ors.

Mr. Dhananjay Banerjee,
Mr. Arup Kumar Bhowmick
..for the petitioner

Mr. Bhaskar Prasad Vaisya,
Mr. Sagnik Chatterjee
...for the State

Mr. Avishek Prasad
...for the DPSC, Malda

1. The petitioner is aggrieved by order dated 6th March, 2024 passed by the D.I. of Schools (S.E.), Malda. By the impugned order, the petitioner's application for compassionate employment was returned and rejected.
2. The ground for rejection was that the petitioner in terms of Schedule V Rule 1 of the West Bengal School Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff) Rules, 2009, the petitioner had crossed 45 years, the maximum age limit

as on the date of her application for compassionate employment.

3. The brief facts relevant to the case are that the petitioner's husband late Bipul Kumar Das was an Assistant Teacher under the DPSC, Malda and had died-in-harness on 31st July, 2022.
4. As on the date of death of her husband, the petitioner was 44 years and a few months old. The petitioner applied for compassionate employment about 6 months after the death of her husband on 29th January, 2023. On the said date, however, the petitioner had cross 45 years of age. The D.I. of Schools in the impugned order was technically correct in holding that the petitioner had crossed 45 years as on the date of her application for compassionate employment.
5. This Court is, however, of the view that on a plain reading of Schedule V, in connection with Rule 20 and 21 of the said Rules of 2009 (supra) it could definitely and certainly be interpreted to mean that the minimum age of 18 years and maximum age of 45 years should be calculated as on

the date of death of the employee concerned.

6. This interpretation would be effective provided, however, the application for compassionate employment is made within 2 years period stipulated under the Rules of 2009. Any application made beyond the period of 2 years, would not attract the interpretation of age as indicated hereinabove.
7. In view of the above and the facts and circumstances of the case, the petitioner had not crossed 45 years as on the date of death of her husband. The petitioner's application was made within 6 months of her husband's death. The petitioner is, therefore, eligible for compassionate employment under the Rules of 2009 (supra).
8. For the reasons stated hereinabove, the impugned order dated 6th March, 2024 shall stand set aside.
9. The D.I. of Schools (S.E.), Malda shall process the petitioner's application for compassionate employment, duly factoring in all other requirements, i.e., the financial condition of her family, income from any

sources other than pension and terminal benefits of the deceased etc. as mentioned in the Rules of 2009 (supra).

10. Let a decision be taken by the D.I. of Schools (S.E.), Malda, within a period of 2 months from the date of communication of a copy of this order upon making due and sufficient enquiry.
11. Let the decision be communicated to the petitioner immediately thereafter. The petitioner shall cooperate with the D.I. of Schools in respect of any enquiry that he will cause for the purpose of passing orders as directed hereinabove.
12. With the aforesaid directions, the instant writ petition shall stand disposed of.
13. There shall be no order as to costs.
14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)