

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

MAT 853 of 2024

CAN 1 of 2024

Md. Nasim

Vs.

State of West Bengal & Ors.

For the Appellant	:	Md. Salahuddin Md. Ahsanuzzaman Md. Raziuddin
For the State	:	Mr. Jayanta Samanta Mr. Keshab Chandra Das
For KMC	:	Mr. Alok Kr. Ghosh Mr. Arijit Dey
Heard on	:	24.09.2024
Judgment on	:	24.09.2024

Joymalya Bagchi, J.:-

1. Appeal has been preferred against the order rejecting the claim of the writ petitioner for appointment on compassionate ground. Appellant's mother had died in 2008. In 2009, he applied for appointment on compassionate ground. In the application he gave out his date of birth as 16.1.1976 but in the school leaving

certificate annexed to the application his date of birth was recorded as 15.7.1988. In view of the aforesaid discrepancy the Special Regulation Committee on 20th December 2016 rejected his application stating that he has made false claim regarding education qualification. The decision was communicated to the appellant in 2017 but the appellant assailed the decision after four years in 2021. Hon'ble Single Bench dismissed the same on the ground of discrepancy in the date of birth of the appellant.

2. Mr. Salahuddin contends the discrepancy in respect the date of birth was an inadvertent mistake and his prayer for compassionate appointment ought not to have been dismissed on that score. He also contends school leaving certificate is genuine. Even if the same is held otherwise it would not materially affect his claim for compassionate appointment.
3. We have considered the materials on record. There is a palpable discrepancy with regard to date of birth stated by the petitioner in his application as 16.1.1976 and the school leaving certificate wherein it was recorded as 15.7.1988. Considering the materials on record the Special Regulation Committee noted the educational certificate was not genuine. Be that as it may, the decision was communicated to the appellant in 2017. Appellant assailed the decision four years later in 2021. Compassionate appointment is not a heritable right. It is an exception to the rule of public appointment through open competition in order to enable dependant families to tide over unforeseen circumstances owing to

death of the employee. Its rejection ought to be promptly assailed failing which the live link between the death and appointment on compassionate ground is not snapped. In view of the reasons given by the Special Regulation Committee and the inordinate delay of four years to assail the decision we are of the opinion the prayer for compassionate appointment has been rendered stale.

4. Appeal is accordingly dismissed.
5. There shall be no order as to costs.
6. Urgent Photostat certified copy of judgment, order if applied for be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)