

25.06.2024
Ct. no.11
Sl. no.15/sn/sb

WPCT 97 of 2023

**Sasanka Ghatak
-Vs-
Union of India & Ors.**

Mr. Debdutta Basu
Mr. Sudip Sarkar ..for the petitioner

Mr. S.N. Dutta ..for the respondents

The present writ petition has been preferred challenging the order dated 14th September, 2022 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being the OA No.797 of 2022.

The grievance of the petitioner is that the Circle Relaxation Committee (CRC) while considering his application for compassionate appointment did not grant appropriate marks on different parameters, as incorporated in the scheme and on the basis of discrepant marking, the name of the private respondent no. 5, who did not come within the zone of consideration, was recommended.

Mr. Basu, learned advocate appearing for the petitioner submits that the OA preferred by the petitioner was erroneously dismissed upon arriving at finding that the petitioner could not establish that the candidates scoring lesser marks than him had been granted

compassionate appointment. In reply to the application made under the Right to Information Act, the authorities have disclosed no reason towards non-consideration of the petitioner's claim pertaining to the vacancies of the years 2017-2018 and 2018.

He argues that the petitioner's father expired in the year 2008 and that as such the authorities were under an obligation to consider the petitioner's claim on the basis of the scheme in force on the date of death. In spite of a direction of the learned Tribunal towards consideration on the petitioner's claim on the rudiments of the scheme in operation, the respondents in an arbitrary and *mala fide* manner applied the provisions of the scheme which came into effect subsequent to the death of the petitioner's father and as such the order passed by the competent authority on 5th October, 2015 ought to have been rejected by the learned Tribunal. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same.

Mr. Dutta, learned advocate appearing on behalf of the respondents denies and disputes the contentions of the petitioner and submits that the petitioners case was placed before the CRC meeting held for the earmarked 5% vacancies of compassionate appointment quota for the year 2015-16, 2016-17, 2017-18 & 2018 but he could not secure appropriate merit points for recommendation.

He contends that it would appear from the records that the controversy was as to whether the petitioner had been given appropriate marks in consonance with the scheme. From the documents, the respondents have clearly depicted that there was no infirmity towards grant of appropriate marks pertaining to the attributes mentioned in the scheme. Admittedly, the petitioner secured 38 merit points and the last recommended candidate earned appointed in the concerned year secured 60 merit points. In the said conspectus, the learned Tribunal did not interfere with the order impugned in the OA.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

The adjudicatory field of the writ Court is solely on the basis of pleadings. The argument of Mr. Basu as regards applicability of a particular scheme is not acceptable since no such issue was pleaded in the OA. When a point is required to be substantiated by facts, the party raising the point must plead such facts. If the facts are not pleaded, the Court cannot entertain the point.

It is well settled that to provide immediate succour to the family of the bread earner and to save the family members from financial crisis, compassionate appointment is granted, but such appointment is required to be in strict consonance with the scheme.

Compassionate employment being an exception to the general rule, the scheme therefor has to be strictly construed and confined only to the purpose it seeks to achieve.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned.

In view thereof, no interference is called for in the present writ petition and the same is, accordingly, dismissed.

There shall however be no order as to costs.

Urgent Photostat certified copy of this order be given to the parties on priority basis if the same is applied for.

(Partha Sarathi Chatterjee,J) (Tapabrata Chakraborty, J.)