

23.09.2024
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WPST103 of 2024
Mita Das
– *Versus* –
The State of West Bengal & Others

Mr. D. N. Ray,
Mr. Rajesh Kumar Shah,
Mr. Sourav Haldar
... for the Petitioner.

Ms. Sonal Sinha,
Mr. Avishek Prasad
.... for the State/Respondents.

The present writ petition has been preferred challenging an order dated 14th March, 2024 passed by the learned Tribunal in the original application (in short, OA), being OA 124 of 2023 refusing to interfere with the order dated 13th October, 2022 passed by the respondent no.2.

Mr. Ray, learned advocate appearing for the petitioner submits that the learned Tribunal refused to interfere being oblivious of the fact that the petitioner's claim has been rejected by the respondent no.2 taking into consideration the alleged income of the petitioner's husband. Such rider is alien to the relevant scheme towards compassionate appointment and could not have been taken into consideration while deciding the financial status moreso when the petitioner's husband is not a member of the deceased's family. In view of such patent error in the decision-making process, the

learned Tribunal ought to have interfered and set aside the order impugned in the OA.

Drawing our attention to the order impugned in the OA, Mr. Ray argues that the petitioner's claim could not have been rejected on the basis of a mere assumption that had the death-cum-retirement benefits obtained by the petitioner's mother been invested in an interest-bearing scheme, the interest could have supplemented the amount received by the widow towards death-cum-retirement benefits. Such procedure, as adopted, is alien to the provisions of the scheme.

He contends that the learned Tribunal as well as the respondent no.2 proceeded being oblivious of the proposition that the death-cum-retirement benefits of the deceased cannot be in any way equated with the benefit of compassionate appointment. Such arguments, as advanced before the learned Tribunal, were glossed over and no finding was returned on the same and such infirmity warrants interference of this Court.

Per contra, Ms. Sinha, learned advocate, assisted by Mr. Prasad, learned advocate, appearing for the State/respondents denies and disputes the contention of Mr. Ray and submits that compassionate appointment cannot be claimed as a matter of right and the same can be introduced having regard to the

compelling financial circumstances. In the present case the petitioner's father expired in the year 2020 and her mother was thereafter getting the family pension as well as her own pension being a retired government employee and as such, the family was having sufficient means to make the both ends meet. Upon conducting an enquiry, the Enquiry Committee ascertained that the petitioner was married prior to the death of her father and she was residing with her husband and son in a pucca house over six katah bastu land and was also having 15 katha cultivable land. Her husband is also working at a private firm earning an amount of Rs.13,500/- p.m. as per available records. It is thus explicit that the petitioner is not suffering from any stringent financial distress and as such, her claim was rightly refused.

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

It is no longer *res integra* that a married daughter is entitled to be considered for compassionate appointment [See the judgment delivered in the case of *State of West Bengal & Others Vs. Purnima Das & Others*, reported in 2017 (4) CHN 362]. In the said judgment it was *inter alia* observed that married daughters would be eligible to apply and to be considered for compassionate appointment. However,

the need for compassionate appointment has to be established. She has to succeed in her claim of being entirely dependent on the earnings of her father on the date of his death. Where a daughter after having been married is subjected to immense torture and harassment at the matrimonial home whereafter she is compelled to return to the care, affection and shelter of her father and her very existence is dependent on the benevolence showered by her father, the authorities would be under an obligation to consider such cases.

It would be explicit from the Enquiry Committee report that such conditions do not stand fulfilled in the instant case and there exists no element of immediacy for grant of compassionate appointment, as prayed for.

It is well settled that compassionate appointment is not a vested right and its object is to give immediate succour to the family to tide over the sudden financial crisis due to the sudden demise of the sole earning member.

Applying such proposition of law to the facts of the instant case, we do not find any infirmity in the order impugned warranting interference of this Court.

Accordingly, the writ petition, being WPST 103 of 2024 is dismissed.

There shall, however, be no order as to costs.

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

(Partha Sarathi Chatterjee, J.)

(Tapabrata Chakraborty, J.)