

WP.CT. 102 of 2023

(Ravi Kumar & Anr. Vs. Union of India & Ors.)

Mr. Pratip Mukherjee
Mr. Sayedul Haque

.... For the petitioners

Mr. Sanajit Kumar Ghosh

..... For the respondents

Affidavit-of-service filed by the petitioners be kept on record.

The present writ petition has been preferred challenging an order dated 17th March, 2023 passed by the learned Tribunal in the original application being OA No. 350/0090/2019.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that the father of the petitioner no. 1, who was working in the post of *Safaiwala* under the railways, died in-harness on 9th January, 1995. Due to the sudden loss of the bread-earner and to tide over the financial distress, the mother of the petitioner no. 1, namely, Sita Devi (in short, Sita) submitted an application for grant of compassionate appointment to the petitioner no. 1, namely, Ravi Kumar (in short, Ravi). As Ravi's claim for compassionate appointment was not considered, he along with his mother filed an original application being OA NO. 350/00941/2016 which was disposed of by an order dated 9th July, 2018 directing the competent authority to dispose of the pending

representation. Pursuant thereto, the respondent no. 5 considered and rejected Ravi's claim by an order dated 15th October, 2018. The same was challenged by an original application being OA No. 350/0090/2019. The said original application was rejected by an order dated 17th March, 2023, which has been impugned in the present writ petition.

Mr. Mukherjee contends that the issue of alleged false declaration was considered by the learned Tribunal in the earlier round of litigation and the same was not treated as a bar towards consideration of Ravi's claim for compassionate appointment and the matter was relegated for further consideration. However, by the order dated 15th October, 2018, citing the selfsame ground, Ravi's claim was rejected but the learned Tribunal erred in law refusing to interfere.

According to him, the learned Tribunal ought to have appreciated that the alleged false declaration, if any, was tendered by Ravi's mother and there had been no fault on the part of Ravi and he cannot be penalized. Such issue, as argued, was glossed over by the learned Tribunal and no finding was returned on the same.

Drawing our attention to an affidavit, annexed at page 125 of the petition, Mr. Ghosh, learned advocate appearing for the respondents submits that Ravi was very much aware of the false declaration submitted by

his mother and he was a major when the affidavit was sworn in the year 2013.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

It is well settled that appointment on compassionate ground cannot be claimed as a matter of right. The object of compassionate appointment is to mitigate the hardships of the deceased's family due to the sudden loss of the bread- earner.

Applying such proposition of law and considering the arguments as advanced by the parties, the learned Tribunal rightly observed that the widow herself was a permanent employee of the railways and the family did have a breadwinner at the time when her husband expired and that as such, the family was not in penury. The submission of an affidavit incorporating untrue statements could not be denied by Ravi's mother. On an overall consideration of the facts, the learned Tribunal refused to exercise any discretion in favour of Ravi. Such decision, in our opinion, does not suffer from any patent error of law warranting interference in the present writ petition.

Accordingly, the writ petition being **WP.CT. 102 of 2023** is dismissed.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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