

06-05-2024
ct no. 13
Sl. 48
sp

WPA 13342 of 2022
Amartyadyuti Banerjee
-Versus-

The State of West Bengal & Ors.

Mr. Amar Nath Sen,
Mr. Malay Dhar,
Mr. Amit Bikram Mahata,
Mr. Shouvik Naskar

..for the petitioner

Mr. Supriya Chattopadhyay,
Mrs. Tapati Samanta,
Mr. Arindam Ghosh

...for the State

Mr. Bhaskar Prasad Vaisya,
Mr. Gourav Das

..for the DPSC, South 24 Parganas

1. The writ petitioner is aggrieved by order dated 24th February, 2022. By the said order, the petitioner was held to be a minor at the time of his father's death. Admittedly, the father of the petitioner died on 8th May, 2011. 2 years later the mother made an application, in 2013, for compassionate employment. It was submitted that her son was a minor and his case for application for the same may be considered after he attained majority.
2. There is nothing on record to indicate that the mother's application was considered or that the petitioner was kept in any live register by the respondents. The petitioner and his mother

kept silent until 2019 except to make a representation before the respondents. The petitioner approached this Court for the first time in the year 2018 by way of WP 19651 (W) of 2018.

3. The writ petition was disposed of directing the respondents to consider the petitioner's application for compassionate employment and take a decision thereon, within a period of 6 weeks from 12th November, 2018.
4. At no point of time was the financial condition of the petitioner's family ever assessed by the respondents. The respondents DPSC, South 24 Parganas, by order dated 27th April, 2019, recommended the petitioner's case for appointment in the Group-C post after making same vague and irrelevant discussion.
5. The D.I. of Schools, South 24 Parganas, however, did not take any steps pursuant to the recommendation of the DPSC. The petitioner approached this Court again for the second time in the year 2022 by way of WPA 420 of 2022. The said writ petition was disposed of by a Co-ordinate bench on 25th January, 2022 directing the D.I. of Schools to take a decision on the petitioner's case for

compassionate employment. The impugned order was passed thereafter.

6. Learned counsel for the petitioner has placed reference to a decision of a Division Bench of this Court dated 31st July, 2023 in MAT 1770 of 2015 (The State of West Bengal & Ors. Vs. Pravat Kumar Pal & Ors.) and another order of a Division Bench of this Court in the case of ***Syed Iftikar Ali Vs. State of West Bengal*** reported in ***2011 (2) CHN (CAL) 17***. Further reliance is placed on a decision of the Supreme Court in the case of ***Syed Khadim Hussain Vs. State of Bihar & Ors.*** reported in ***(2006) 9 SCC 195***, particularly, paragraph 6 thereof. He assails the impugned order based on the foresaid decision.
7. It is now well-settled that compassionate employment is not a matter of right. It is not a regular source of employment. It is meant to prevent the family of the sole bread earner from falling into penury and starvation.
8. It appears from the records of the instant case that the petitioner's mother made an application for compassionate employment in 2013, nearly about 2 years after the death of her husband in 2011. The petitioner and his mother remained silent thereafter until 2018.

There could, therefore, be a presumption here that the petitioner or his family member were not in penury or starvation after the death of his father.

9. It is only pursuant to the order of a Co-ordinate bench in the year 2019 that the Chairman, DPSC, South 24 Parganas, for absolutely no reasons at all, recommended the petitioner's case for compassionate employment. There could not have been any assessment of the petitioner's family's financial condition in the year 2019 when the petitioner's father died in the year 2011. No such assessment was ever made by the respondents till date. The petitioner had not pursued his case for compassionate employment from 2012 till 2018.
10. The petitioner had not approached the Court within reasonable time to seek any remedy to entitle him or his mother to compassionate employment.
11. In the backdrop the above, the subsequent orders passed by a Co-ordinate bench dated 25th January, 2022 passed in WPA 420 of 2022 cannot come to the aid of the petitioner.
12. The aforesaid issue was delay and not placed or argued either of the two benches. The

principles behind the compassionate employment was not considered.

13. In the backdrop of the above, the impugned order, even if considered incorrect in the backdrop of the decision cited by the counsel for the petitioner would not create any right in his favour for compassionate employment.
14. The petitioner's family has survived very well until the year 2024 or even until 2022 when the instant writ petition was filed.
15. In the above circumstances, no relief can be granted to the petitioner.
16. WPA 13342 of 2022 shall stand disposed of without any order.
17. There shall be no order as to costs.
18. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)