

WP.CT 111 of 2023
(Mongla Bhaduli & Anr. Vs. The Union of
India & Ors.)

Mr. Pratip Mukherjee
Mr. S. K. Haque
Mr. Aditya Chakraborty

..... For the petitioners

Mr. Ashok Kumar Chakraborty, Ld. Addl. Sol. Gen.
Ms. Sabita Roy

..... For the respondents

The present writ petition has been preferred by the son and the widow of the deceased employee, who was employed under the railways and he died in-harness on 22nd May, 2002. The widow of the deceased being the petitioner no.2 herein initially submitted a prayer for compassionate appointment on 1st August, 2002 but such prayer was rejected by the authorities on 24th/25th December, 2004. Aggrieved thereby, the respondent no.2 approached the learned Tribunal and the original application was finally disposed of on 22nd December, 2006 refusing to grant the relief as prayed for. Thereafter, on 9th March, 2015, the respondent no.2 submitted a representation for appointment of her son being the respondent no.1 on compassionate ground. Such prayer was refused by an order dated 18th August, 2015. Challenging the same the petitioners preferred the original application being OA 848 of 2019 which was dismissed by an order dated 13th March, 2023. The same is under challenge in the present writ petition.

Mr. Mukherjee, learned advocate appearing for the petitioners submits that while considering the claim of compassionate appointment of the petitioner no.1, the respondents have illegally applied the provisions of a Railway Board Circular being RBE No. 195 of 2017 which could not have been given any retrospective effect and the circulars which were existing on the date of death or on the date of submission of the representation for compassionate appointment, ought to have been taken into consideration. Such argument, as urged, was glossed over by the learned Tribunal and no finding was returned on the same. Such infirmity warrants interference of this Court.

Drawing our attention to the circulars annexed to the supplementary affidavit, he argues that on the date of death or on the date of submission of the representation for compassionate appointment of the petitioner no.1, the circulars in operation provided that educational qualification of VIIIth pass certificate would be sufficient for compassionate appointment but such requirement was enhanced to 10th pass in the year 2017.

He submits that the claim towards compassionate appointment of the petitioner no.1 was not even considered applying the relevant parameters and his prayer was refused by a cryptic order.

Per contra, Mr. Chakraborty, learned Additional Solicitor General appearing for the respondents submits

that admittedly the claim of the petitioner no.1 was not disposed of prior to the date of issuance of the circular being RBE No. 195 of 2017 and as such the provisions of the said circular had been rightly applied in the case.

He further argues that the death occurred in the year 2002 when the respondent no.1 was admittedly minor, he attained majority in the year 2006 and the prayer for compassionate appointment, on his behalf, was made in the year 2015 without explanation of the delay which occurred. All these issues need to be considered together for taking a decision on the issue.

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

Indisputably the employee expired on 22nd May, 2002 when the petitioner no.1 was only 14 years since his date of birth is 22nd April, 1988, as would be explicit from the document at page – 54 of the writ petition. He attained majority, accordingly, in the month of May, 2006. However, the application for his compassionate appointment was submitted in the year 2013. The said period of delay has not been explained. Earlier claim for compassionate appointment of the petitioner no.2 was ultimately rejected in the year 2004.

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.

Applying such proposition of law to the admitted facts and circumstances of the case, we are of the opinion that the learned Tribunal rightly refused to exercise discretion in favour of the petitioners.

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.

Accordingly, the writ petition stands 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.)