

3
09.07.2024
Ct. No. 11
rrc

WPST 129 of 2024
(Anupama Sardar Vs. The State of
West Bengal & Ors.)

Mr. Pratik Majumder
Mr. Abul Mullick
.... For the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Ashmita Chakraborty
..... For the State-respondents

Mr. Jayak Kr. Gupta
Mr. Swarvanu Saha
..... For the respondent no. 4

The conflict between the two daughters of a deceased employee, who died in harness on March 18, 2023, over the issue of entitlement to a compassionate appointment has reached its peak, as neither of them has been able to obtain a 'No Objection Certificate' (hereinafter referred to as the 'NOC') from the other.

The younger daughter, the petitioner herein, sought intervention of the learned Tribunal through an original application (in short, OA) vide. OA 177 of 2024. However, the Tribunal refused to intervene with an observation that it could not compel either party to issue a 'NOC' in favour of the other. Hence, the writ petition.

For clarity and convenience, let us delve into the background facts that led to this conflict. The deceased employee, who happened to be a constable of West Bengal Police, died in harness on 18th March, 2023. Prior to his death,

he married off both of her daughters. His wife had predeceased him.

The elder daughter who is married and living with her husband presented a petition to the concerned authority seeking her compassionate appointment on 22nd May, 2023.

After dissolution of her marriage, the younger daughter also submitted an application for her appointment on compassionate ground in February, 2024.

Though no specific order has been passed but citing the reason that 'NOC' from other dependant of the deceased employee is a mandatory requirement, the respondents insisted the petitioner, the younger daughter to obtain and produce 'NOC' from the elder daughter. Situated thus, the petitioner was constrained to prefer an original application, being OA No. 177 of 2024, which was disposed of by an order dated 22.04.2024. The learned Tribunal in its order observed that it could not compel the elder daughter to issue 'NOC' in her favour. Aggrieved by the order dated 22.04.2024, the petitioner has instituted the present writ petition.

Mr. Majumder, learned advocate appearing for the petitioner, contends that dispute surfaced in the petitioner's nuptial life in 2017. The petitioner lodged an FIR against her husband under Section 498A of Indian Penal Code. The petitioner was compelled to leave her matrimonial house and take shelter in her parents' house. Initially, employed as a contractual employee in an establishment, she earned something but subsequently, she lost that engagement. She then survived on the benevolence showered upon her by her father.

Mr. Majumder further contends that the private respondent, the elder daughter, is a married lady. She is currently residing with her husband and employed. According to him, the private respondent is not in financial distress and therefore, need not be favoured with compassionate appointment. He submits that the issue may be relegated to the concerned authority to determine the most suitable candidate for such appointment and proceed accordingly.

In response, Mr. Gupta, learned advocate appearing for the respondent no. 4 strenuously contends that this writ petition is premature and therefore, not maintainable. He argues that the petitioner applied for compassionate appointment after expiry of the six-month period, as stipulated in the scheme for presentation of an application for compassionate appointment.

He further submits that although the private respondent herein is a married lady but the income of her family having a minor daughter, is insufficient to meet their needs. He asserts that the private respondent, as the first applicant and the most suitable candidate, should be granted compassionate appointment.

Mr. Mukherjee, the learned Additional Government Pleader appearing for the State respondents, submits that according to the scheme and its annexure, specifically Form A, the production of a No Objection Certificate (NOC) is a mandatory requirement. However, in this case, neither the petitioner nor the private respondent could produce the NOC."

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

Considering the peculiarity of the circumstances where both daughters of the deceased employee are fighting for the compassionate appointment, and as the matter is pending final consideration by the concerned authority, we are inclined to dispose of the writ petition by directing respondent no. 2 to decide the issue. Respondent no. 2 shall consider the representations submitted by the respective parties, provide an opportunity of hearing to both of them, review all documents produced by them and take a reasoned decision. The decision will be communicated to both the petitioner and private respondent.

The entire exercise shall be carried out within 8 (eight) weeks from the date of communication of this order.

Both the writ petitioner and the private respondent are directed to communicate this order, along with a copy of the writ petition, copies of the applications presented by them and all other documents to the concerned authority.

It is made clear that we have not gone into the merits of the case and all points are left open to be decided by the competent authority.

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.)