

WPCT 118 of 2023
(Tapati Das Vs. Union of India & Ors.)

Mr. Aniruddha Mohanta
Mr. Ajit Kumar Barman
..... **For the petitioner**

Ms. Chandreyi Alam
..... **For the respondents**

The present writ petition has been preferred challenging the order dated 1st May, 2023 passed by the learned Tribunal in the original application (in short, OA), being OA 1516 of 2021 challenging, *inter alia*, the memoranda dated 4th March, 2020 and 24th September, 2019.

Records reveal that the petitioner's husband, namely, Partha Pratim Das (in short, Partha) died in harness on 7th January, 2019. To tide over the financial distress, the petitioner, namely, Tapati Das (in short, Tapati), widow of Partha, applied for compassionate appointment and in response thereto, a memo dated 24th September, 2019 was issued offering Tapati a temporary group 'D' post. In the said memo it was stated *inter alia* that such appointment would be purely on '*Temporary Erstwhile Group 'D' category and conferment of temporary status after completion of four months continuous service does not entitled you to automatic absorption/appointment in Railway Service to regular post*'. As Tapati was allegedly not being allowed to join the said post, representations were submitted and thereafter a memo dated 4th March,

2020 was issued regretting her prayer for appointment on compassionate ground. Subsequent thereto, another memo dated 14th July, 2020 was issued stating *inter alia* that Tapati's request for compassionate ground cannot be acceded to as she does not fulfill the provisions of the Scheme towards compassionate appointment, as incorporated in the circular being RBE No. 42/2018 moreso when she is the sole dependent of the deceased as her only son, namely, Hiranmay Das (in short, Hiranmay) is missing since the year 2011.

Mr. Mohanta, learned advocate appearing for Tapati submits that having offered compassionate appointment by the memo dated 24th September, 2019, the respondents could not have prevented her from joining the post. There was also no justification towards withdrawal of such offer by the memo dated 4th March, 2020 which is *ex facie* a cryptic one. Due to the loss of the sole bread-earner, Tapati is suffering extreme financial distress and in appreciation of such fact, the respondents ought not to have denied compassionate appointment to Tapati.

Ms. Alam, learned advocate appearing for the respondents, however, denies and disputes the contention of Mr. Mohanta and submits that the memo dated 24th September, 2019 did not confer any indefeasible right towards appointment and considering the financial status of Tapati, her claim for compassionate appointment was reviewed. Subsequent

to Partha's demise, Tapati became entitled to settlement dues to the tune of Rs. 56,28,674/-. 70% of the total settlement dues has been disbursed in favour of Tapati and 30% of the settlement dues, being the share of Hiranmay, has been retained by the respondents.

Ms. Alam further submits that the main criterion for grant of compassionate appointment is the financial condition of the family and the existence of a need towards immediate succor. The financial condition of Tapati is sufficient for her to make the both ends meet.

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

Records further reveal that Tapati has already received a substantive amount towards the settlement dues and is also enjoying an amount of Rs. 38,250/- plus Dearness Relief monthly towards family pension and such amount is more than sufficient for a sole dependent to survive.

In the instant case, Tapati, aged about 56 years, remains to be the sole dependent since Hiranmay is missing from 2011. Such fact was reported and a complaint was registered as Chittaranjan PS Case No. 47/2014 dated 4th November, 2014 under Section 363 IPC and upon completion of investigation, a final report has been filed stating that the investigating officers took several attempts to find out the missing boy, but got no fruitful results. Till date, more than 12 years have

elapsed and all due enquiries appropriate to the circumstances have been made but Hiranmay could not be traced out.

It is well settled that compassionate appointment is given solely on humanitarian ground with the sole object is to provide immediate relief to the deceased family to tide over the sudden financial crisis. It is not a vested right and cannot be claimed as a matter of right. Such claim for compassionate appointment is traceable only to the Scheme framed and the financial condition of the dependent.

In the said conspectus, the learned Tribunal refused to exercise discretion in favour of Tapati and we do not find any infirmity in the said order.

However, in the facts and circumstances of the case and since the chance of tracing out Hiranmay is very remote, the settlement dues withheld by the respondents towards the share of Hiranmay needs to be disbursed in favour of Tapati subject to compliance of necessary formalities.

Ms. Alam, has placed before this Court a written instruction furnished by the competent authority *vide* memo dated 3rd September, 2024 detailing the formalities towards such disbursement as follows:

'1. An indemnity Bond of Rs.18,18,432.00 (Rupees Eighteen Lakh Enghteen Thousand Four Hudred Thirty Two only) executed by the petitioner for payment of the share as under:

A) Provident Fund:- Rs. 8,64,789.00

B) *Death Cum Retirement Gratuity:- Rs. 9,33,573.00*

C) *Group Insurance Scheme:- Rs.20,020.00*

2. *An affidavit from 1st Class Magistrate containing the declaration that, in case of returning back of missing son, the share of the son of the petitioner along with interest may be refunded to this Administration without assigning any condition.'*

Let the said written instruction, as produced, be kept on record.

Accordingly, this Court directs the respondents to disburse the amount of Rs.18,18,432/- to Tapati subject to compliance of the above formalities, as indicated in the memo dated 3rd September, 2024, within a period of 4 (four) weeks from date of communication of this order.

The order impugned in the present writ petition is, accordingly, modified and the writ petition being WPCT 118 of 2023 is disposed of.

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.)