

MAT 1354 of 2024
with
IA No. CAN 1 of 2024
(Smt. Haimanti Mandal Vs. The State of
West Bengal & Ors.)
(Assigned)

Mr. Saktipada Jana
Mr. Tamal Taru Panda
Ms. Sudipta Pramanik
.... For the appellant

Mr. Biswabrata Basu Mallick, Id. AGP
Mr. Ratul Biswas
.... For the State respondents

Mr. Gourav Das
..... For the DPSC (South 24-Pgs)/
Council

Dr. Sutanu Kumar Patra
Ms. Supriya Dubey
..... For the WBCSSC

The present appeal has been preferred by the writ petitioner/appellant challenging an order dated 10th June, 2024 passed in a writ petition being WPA 27017 of 2023. By the said order, the learned single Judge dismissed the writ petition and refused the appellant's prayer for compassionate appointment primarily on the ground that she had approached the authorities belatedly. The learned single Judge observed, *inter alia*, that the chain of events indicated that the appellant's family was never in starvation or in financial distress and that as such, question of consideration of her claim for compassionate appointment does not occasion.

When the present appeal appeared before this Court on 17th September, 2024, Mr. Jana, learned advocate appearing for the appellant prayed for leave to file a

supplementary affidavit. Let the same, as filed, be kept on record.

Mr. Jana argues that the appellant was totally dependant upon the income of her father, who unfortunately died-in-harness on 6th July, 2010. Immediately thereafter, application was submitted for the grant of compassionate appointment but as her claim was not considered, the appellant approached the writ Court. By an order dated 13th October, 2015 the learned single Judge directed the respondent no. 3 therein to take a decision. Pursuant thereto, the respondent no. 3 passed an order on 6th June, 2018 observing, *inter alia*, that the appellant is not qualified for appointment as a primary teacher and direction was issued to act in terms of para 3 of the Government Order dated 6th July, 2015. The respondents thereafter maintained a deceptive silence and as such, the appellant was constrained to again approach this Court but her prayer was rejected by the order impugned in the present appeal.

Placing reliance upon the averments made in the supplementary affidavit, Mr. Jana strenuously argues that the respondents were under an obligation to consider the appellant's claim in terms of para 3 of the Government Order dated 6th July, 2015. Such obligation was not discharged. The purported delay on the basis of which the appellant's claim was primarily rejected by the learned single Judge stands intervened by period of lost due to pandemic. Such delay was neither *mala fide* nor

deliberate. The authorities ought to have considered the appellant's claim in terms of the Government Order dated 6th July, 2015.

Answering our query, Mr. Jana, however, submits that the widow of the deceased is getting pension and that the appellant subsequently married on 6th July, 2022. There is, however, no bar towards consideration of a married daughter's prayer for compassionate appointment. The appellant's husband is a poor cultivator and the appellant is still under extreme financial distress.

Such contention of Mr. Jana has, however, been disputed by Mr. Basu Mallick, learned Additional Government Pleader appearing for the State respondents. He submits that compassionate appointment is not a vested 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. There is no suitable explanation whatsoever as to why the appellant did not approach the authorities immediately after issuance of the order dated 6th June, 2018. In view thereof, the learned single Judge rightly rejected the appellant's claim.

Mr. Das, learned advocate enters appearance on behalf of the Council and submits that no allegation has been levelled against the Council in the writ petition.

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

Much prior to the onslaught of COVID Pandemic, the order dated 6th June, 2018 was passed by the competent authority. However, the appellant did not take appropriate steps at that juncture. In the supplementary affidavit it has *inter alia* been stated that from the newspaper the appellant came to learn that a judgment had been delivered by the Hon'ble High Court directing consideration of claim of married daughter and that accordingly, she contacted her learned advocate to file the writ petition.

It is well settled that relief under Article 226 of the Constitution is discretionary in nature. The Court cannot interfere in a matter after passage of a certain length of time. The learned single Judge while rejecting the writ petition arrived at a finding that the delay was attributable to the appellant and that her lackadaisical attitude indicated that the family was not in penury. We do not find any error, least to say any patent error of law in the order impugned warranting interference.

Accordingly, the appeal and the connected application are dismissed.

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

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

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