

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Gaurang Kanth

FMA 971 of 2024

CAN 1 of 2024

Sandip Chakraborty & Anr.

Vs.

Kolkata Municipal Corporation & Ors.

For the Appellant : Mr. Rahul Karmakar
Mr. D Upadhyay
Ms. Munmun Majumder

For KMC : Mr. Alok Kr. Ghosh
Mr. Arijit Dey

Heard on : 25.09.2024

Judgment on : 25.09.2024

Joymalya Bagchi, J.:-

1. Appellant's father died in 2011. He was a minor at that time. His mother made application for his compassionate appointment in future after he attains majority. Respondent Corporation rejected his application on the ground that the appellant was not entitled to compassionate appointment at the time of death of the employee. Thereafter, appellant's mother prayed for reconsideration of the said

order which remained pending for seven years. In 2022, appellant approached this court seeking compassionate appointment.

2. Hon'ble Single Judge turned down his prayer. Review petition had also been dismissed. Appeal has been filed against the dismissal of review petition which is not maintainable in law.

3. Be that as it may, we have considered the issue on merit. Compassionate appointment is an exception to the ordinary rule of public appointment through open competition. It may be availed strictly in terms of scheme floated by the employer. Scheme for compassionate appointment of the respondent corporation does not give liberty to a minor son to seek employment upon attaining majority. Admittedly, appellant was a minor at the time when his father died. His mother made a prayer on his behalf for appointment on compassionate ground after he attained majority. Prayer was rightly turned down by the respondent corporation. Instead of challenging the said decision, his mother prayed for reconsideration of the said decision. After seven years appellant approached this court seeking compassionate appointment. We are of the view appellant was not entitled to compassionate appointment as per the prevalent scheme as he did not attain majority at the time of death of his father.

4. Accordingly there is no scope of reconsideration of such prayer. Moreover, more than a decade and half has passed since death of the employee and his prayer for compassionate appointment has

been rendered stale by efflux of time. Hence, we are not inclined to interfere with the order impugned.

5. Appeal is accordingly dismissed.
6. There shall be no order as to costs.
7. Urgent Photostat certified copy of judgment, order if applied for be given to the parties on compliance of all formalities.

I agree.

(Gaurang Kanth, J.)

(Joymalya Bagchi, J.)