

03.07.2024
Court No. 18
Item No. 10
(Suvendu)

WPA 17824 of 2022

Rinki Sardar Biswas

-Versus-

The State of West Bengal & Ors.

Mr. Saibalendu Bhowmick

Mr. Biplab Guha

Mr. Rajsekhar Basu

.....for the petitioner

Dr. Sutanu Kr. Patra

Ms. Supriya Dubey

.....for the WBCSSC

Ms. Koyeli Bhattacharyya

Mr. Bibek Dutta

.....for the WBBSE

Mr. Avishek Prasad

.....for the State

The petitioner has come up before this Court with the writ petition for her appointment on compassionate ground in view of the recommendation which was made by the then Chairman, West Bengal Regional School Service Commission on 22nd September, 2021.

Mr. Saibalendu Bhowmick, learned advocate representing the petitioner submits that petitioner was expecting her first child when her husband died-in-harness who was an

Assistant Teacher in a Government aided High School due to cerebral attack. Sudden death of petitioner's husband prompted her to make application for being appointed on compassionate ground. When the petitioner's application was considered and the petitioner was recommended for being appointed as clerk under died-in-harness category, the petitioner became mother of an ailing child. It is submitted that the child is suffering from serious skin ailment and is under treatment. However, it is submitted that the application of the petitioner was duly considered and the concerned authority of the School Service Commission recommended the petitioner to be appointed as a clerk in Palpur Adarsha Bidyapith UP, Police Station – Gosaba, District – South 24 Parganas. Since at the material point of time petitioner found it difficult to join the recommended post since she had to take care of her only child who was suffering from serious ailment, letters were sent to the Chairman of the Commission for recommending her to a school which was nearby to her place of residence which would have facilitated her to join the post.

One of such letters, which petitioner sent to the Commission, is at page 64 of the writ petition.

Subsequently, the present writ petition was instituted, *inter alia*, praying for appointment in a suitable post nearby to her place of residence since due to genuine difficulties petitioner could not join the post recommended by the West Bengal Regional School Service Commission vide memo dated 22nd September, 2021.

The West Bengal Central School Service Commission, West Bengal Board of Secondary Education and State respondents are represented by the learned advocates.

Dr. Patra, learned advocate representing the Commission submits that in receipt of letters from the petitioner seeking recommendation for another school nearby to the place of residence, a memo dated 21st April, 2022 was forwarded to the District Inspector of Schools (SE), South 24 Parganas requesting him to intimate a suitable vacancy for the petitioner which is nearby to her place of residence. Copy of the memo dated 21st April, 2022 is placed before this Court and the same is taken on record.

On behalf of the Board Ms. Bhattacharya, learned advocate submits that though petitioner was asked to appear before the Board for issuance of appointment letter on completion of necessary formalities on 8th October, 2021 but the petitioner did not turn up which prevented the Board from taking necessary steps. According to the Board, if on the fixed date petitioner remained present appropriate steps would have been taken contemporaneously for permitting the petitioner to join the post upon issuing appointment letter.

Copies of attendance sheet showing the petitioner was absent on 8th October, 2021 and the list of candidates which was forwarded by the Commission containing name of the petitioner against serial no. 55 are placed before this Court and the same are taken on record. From those documents it also appears that petitioner did not turn up after her name was forwarded by the Commission for issuance of appointment letter.

Be that as it may, it appears that petitioner was found eligible to be recommended for being appointed on compassionate ground due to untimely death of her husband in-

harness who was an Assistant Teacher in a Government aided High School. It is true, as it appears from the submission made on behalf of the respondents, that petitioner could not turn up before the concerned authority of the Board for compliance of the formalities prior to issuance of appointment letter as a result whereof Board could not issue appointment letter in favour of the petitioner based on the recommendation vide memo dated 22nd September, 2021 but this Court being the Court of equity needs to strike a balance between the facts relating to absence of the petitioner before the Board and the difficulties which she was facing due to serious ailment of her only child of three years. Perhaps such difficulties prevented the petitioner to appear before the concerned authority of the Board in order to receive appointment letter. But, what is important that petitioner was found to be eligible to be appointed as clerk under died-in-harness category. Since petitioner has lost her husband prematurely and subsequently became mother of an ailing child, this Court finds that still the financial requirement warrants appointment of the petitioner on compassionate ground.

In view of aforesaid special circumstances, this Court directs the District Inspector of Schools (SE), South 24 Parganas to report a suitable vacancy for appointment of the petitioner in the post of clerk in a school which is nearby to the place of residence by fortnight from the date of communication of this order. On such vacancy being reported to the Chairman, West Bengal Central School Service Commission, the Chairman in his turn shall issue fresh recommendation letter by seven days thereafter from the date of receiving vacancy report from the concerned District Inspector of Schools. After issuance of recommendation letter the concerned authority of the Board shall issue appointment letter in favour of the petitioner within seven days thereafter. On receipt of appointment letter upon compliance of all necessary formalities, the petitioner shall join recommended post immediately thereafter.

With the aforesaid observations and directions, the writ petition is disposed of.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)