

02.12.2024

Sl. No. 05

Ct. No. 23

Srimanta

WPA/20171/2024

Suryavo Shee

-Vs.-

State of West Bengal & Ors.

Ms. Suparna Dutta

...for the petitioner.

Mr. Joydip Banerjee,
Mr. Subhajit Chowdhury

...for the State.

The petitioner's father was an employee under Nadia Highway Division – I under Central Highway Circle of the Public Works Department (in short, PWD)(Road) and died in harness on 14th April, 2019. The petitioner had made an application for compassionate appointment on 27th April, 2019 followed by a further letter dated 27th May, 2019. The petitioner says although his application has been forwarded by the Executive Engineer, Nadia Highway Division-I to the Secretary, P.W.D., Government of West Bengal but nothing further has happened. The petitioner says that State of West Bengal has a scheme for compassionate appointment for the dependants of an employee who dies in harness. The petitioner is otherwise entitled to be appointed on compassionate ground but no steps have yet been taken. The petitioner also says that the whole object of granting compassionate appointment with the delay

will get frustrated as it is meant to provide solatium to the bereaved family to tide over the sudden financial crisis suffered due to loss of the sole bread earner.

On behalf of the respondent, it is submitted that the writ petition is not maintainable before this Court in view of the provisions of Section 15 read with Sections 28 and 3(q) of the Administrative Tribunals Act, 1985. Admittedly, the petitioner's father was a Government servant and service related benefits are to be agitated before the West Bengal Administrative Tribunal.

After hearing the parties and considering the materials-on-record, I find that the West Bengal Administrative Tribunal is operating through only one Bench that too comprised of an Administrative Member as there is no Judicial Member or Chairman appointed for such Tribunal. Although the ratio laid down in the Judgment reported in **(2020) 17 SCC 602 [AIIMS -Vs.- Sanjiv Chaturvedi & Ors.]** mandates the matter to be heard by the Tribunal in view of the statutory provisions contained in the Administrative Tribunals Act, 1985 as also under Article 323A and 323B of the Constitution but in view of the ratio laid down in the Judgment reported in **(2020) 6 SCC 1 [Roger Mathew -Vs.- South Indian Bank Limited]** to the extent that where the

Administrative Tribunal is non-functional the jurisdictional High Court can entertain a writ petition, I dispose of the writ petition by directing the respondent no. 2 being the Secretary, PWD, Government of West Bengal to take a decision on the petitioner's application for compassionate appointment and dispose of the same by a reasoned order within a period of 8 weeks from the date of communication of this order after affording the petitioner a reasonable opportunity of hearing. The respondent no. 2 shall be free to decide upon the issue independently as I make it clear that I have not gone into the merits of the petitioner's claim. The reasoned order shall be communicated to the petitioner immediately after the same being passed.

Nothing further remains to be adjudicated in this writ petition and the same is disposed of.

All parties are directed to act on the server copy of this order duly downloaded from the official website of this Court.

(Arindam Mukherjee, J.)