

27-06-2024

ct no. 13

Sl. 8

sp

WPA 19882 of 2022

Samapti Mondal

-Versus-

State of West Bengal & Ors.

Mr. Partha Sarathi Bhattacharyya,

Mr. Raju Bhattacharyya

..for the petitioner

Mr. Biswabrata Basu Mallick,

Mr. Sanjib Das

...for the State

Mr. Ranjan Saha

...for the DPSC, Paschim Medinipur

1. An unfortunate paradox has emerged in the facts of the case while the respondents have completely misunderstood the scope of compassionate employment. The petitioner is equally guilty in inordinate delay and laches.
2. The petitioner's father was an Assistant Teacher under the DPSC, Paschim Medinipur and died-in-harness on 20th July, 2012. The petitioner made an application for compassionate employment in the post of Assistant Teacher on 12th December, 2013, i.e., within a period of two years of her father's death.
3. The petitioner had a Higher Secondary qualification but no other training

qualification at the relevant point of time. She subsequently acquired B. Ed. qualification in the year 2016. The respondents kept her application pending until the year 2018. She was being informed by the authorities even as on 21st February, 2018, 5th April, 2018, 10th May, 2018 and 20th June, 2018 that her application was pending consideration. On 22nd October, 2014, the Chairman, DPSC, Paschim Medinipur recommended the petitioner's case for compassionate employment and forwarded the same to the CSE for necessary approval.

4. A writ petition being WP No. 23433 (W) of 2018 was filed by the petitioner which was disposed of by order dated 28th January, 2019 directing the Commissioner of School Education, West Bengal to take a decision to accord approval to the proposal dated 22nd October, 2014 already forwarded by the Chairman, DPSC, Paschim Medinipur for appointing the petitioner on compassionate ground.
5. Pursuant to the order dated 28th January, 2019 (supra) passed by a Co-ordinate bench of this Court, the CSE passed the impugned order on 13th February, 2019 stating that the

proposal of the DPSC cannot be approved for the reasons that the petitioner does not have a TET Certificate in terms of the RTI Act, 2009. It was also found that the petitioner does not have a D. El. Ed. qualification.

6. This Court notes with anguish that the Commissioner of School Education has completely failed to appreciate the scope and purport of the scheme for compassionate employment under the State.
7. Compassionate employment is not a regular source of employment. It is an exception to the same. It is a beneficial legislation, to ensure that a family of a deceased, working employee does not fall into starvation and penury after the death of the sole bread winner.
8. The petitioners are four sisters and a mother. Admittedly, the petitioner's mother is receiving pension. The petitioner was 17 years old in the year 2013. Her other sisters were married at the relevant point of time. The mother was 48 years of age and was eligible for appointment to at least a Group-C or Group-D post subject to her qualifications. She did not apply compassionate employment.

9. The petitioner could have been offered a Group-C post by the Commissioner of School Education on his own and could have approved the petitioner's appointment in such post.
10. The petitioner could have also immediately responded to the impugned order, seeking appointment in a Group-C or Group-D post same in the year 2019 itself. She did not do so and has sought to challenge the order of the Commissioner of School Education after waiting for 3 years till 2022.
11. If the petitioner had approached this Court earlier or made appropriate prayers before the earlier Bench in WP 23433 (W) of 2018, one could have considered an appropriate direction upon the CSE in the light of the discussions made hereinabove.
12. More than 12 years have lapsed since after the death of the petitioner's father. The urgency and immediacy for compassionate employment no longer exists. Reference in this regard is made to Para 7(3) of the decision of the Supreme Court in the case of **State of West Bengal –Vs- Debabrata Tiwari** reported in **2023 Livelaw (SC) 175**.

13. It also appears that the petitioner is about 26 years old. She has altered her position and is now married. The same was never communicated to the respondents.
14. In the facts of the case as narrated above, this Court is unable to grant any relief to the petitioner. The Commissioner of School Education shall, however, bear in mind the observations as made above and Para 7 of the **Debabrata Tiwari decision (supra)**.
15. Let a copy of this order be sent to the Commissioner of School Education by the registry.
16. With the aforesaid observations, the instant writ petition shall stand disposed of without any order.
17. There shall be no order as to costs.
18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)