

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 20592 of 2024

Tapan Kumar Dhar

Versus

The Vice Chancellor, Calcutta University & Ors.

For the petitioner : Mr. Kanti Kamal Sen

For the Calcutta University : Mr. Nilotpal Chatterjee
Mr. Sourabh Sengupta

Heard on : 17.09.2024

Judgment on : 17.09.2024

JAY SENGUPTA, J:

This is an application praying for quashing of the impugned Order No. Est./1841/50A dated 06.04.2011 issued by the Registrar of the University of Calcutta and the impugned Item No. 51 of the resolutions dated 27.10.2015 adopted by the

Syndicate of the Calcutta University and for issuance of a fresh order in favour of the petitioner antedating his date of appointment in the post of Junior Assistant on compassionate ground from 12.11.2009 to 25.10.1982 or 14.01.1983.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner's father was an employee of the University of Calcutta. He died on 02.03.1976. The petitioner's mother prayed before the University that her son should be appointed on compassionate ground once he attained majority because the petitioner's mother was not capable of holding such post. The petitioner attained majority on 25.10.1982. However, before that on 29.08.1982, he had applied for compassionate appointment. On 14.01.1983, a resolution was adopted by the Calcutta University syndicate in which a definite framework or Rules for appointment on compassionate ground was approved. However, the petitioner was not granted appointment soon thereafter. It was only on 05.11.2009 that the petitioner was offered appointment on compassionate ground. He continued with the employment and was promoted to the post of Senior Assistant in 2018. His prime contention is that he should have been granted an appointment at least in 1983 when the scheme for compassionate appointment was approved by the syndicate. If the same effect is given, the petitioner would be able to draw full pension of his retirement. In other similar

cases, such benefits have been granted by the University, even from the year 1979.

Learned counsel appearing on behalf of the University denies the allegations and submits as follows. First, the scheme for compassionate appointment for the University came up only in 1983. The question of giving an appointment on compassionate ground before that did not arise. Secondly, it is a fact that the petitioner was given an appointment on compassionate ground in 2009 and he accepted the same on such terms. It is indeed very surprising that after the passage of so many years, the petitioner was granted appointment on compassionate ground, because the essence of appointment on compassionate ground was to tide over the immediate crisis in the family. Moreover, such appointment on compassionate ground can hardly be claimed as of right. However, as such appointment was given, the petitioner can fairly continue with the same and even be entitled to all pensionary benefits thereafter in accordance with law. As the petitioner did not work for an earlier period, antedating the date of appointment cannot be prayed for. Without admitting the petitioner's claim in this regard, even if a wrong precedent has been set in any other case, the same cannot be followed in the present case as of right.

It is very surprising indeed that the petitioner was granted compassionate appointment by the University after so many years. In the instant case, the petitioner's father died in the year 1976. The petitioner became a major in 1982. The scheme for compassionate appointment came up in 1983. Yet, the petitioner was granted appointed in 2009. After all, the essence of compassionate appointment is that it is meant for the family of the deceased to tide over the immediate financial crisis.

Be that as it may, once the petitioner has been granted such appointment on compassionate ground, he shall be entitled to continue with the same and even to draw pensionary benefits, if any.

However, after all this long, the petitioner cannot, as of right, claim that his date of appointment should be antedated to a time when he became major or when the scheme for compassionate appointment got the approval.

Even if, for argument's sake, a contrary example has been set erroneously, such wrong cannot be repeated in the instant case.

In view of the above, I do not find any merit in this application.

Accordingly, the writ petition is dismissed.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)