

A-71 17.1.2024  
Sc Ct. no.22

**WPA 20563 OF 2018**

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Sagar Kumar Barik

Vs.

State of West Bengal & Ors.

Mr. Kamal Mishra  
Mr. Pratap Sanfui.

....For the Petitioner

Mr. Pinaki Dhole  
Ms. Indrani Nandi.

....For the Respondent  
No.3

This is a hearing matter upon affidavits.

The petitioner claims compassionate appointment.

The mother of the petitioner was a State employee and died-in-harness. By the impugned order dated **December 11, 2015, Annexure-P2 at page 21** to the writ petition the respondent no.3 has rejected the claim of the petitioner on the ground of **income** criterion.

From the affidavit-in-opposition filed on behalf of the respondent no.3 affirmed on November 28, 2023, it appears to this Court that, the application for seeking compassionate appointment was submitted by the petitioner within the specified time-frame of two years. However, the claim for compassionate appointment was rejected principally on **income** criterion.

Mr. Kamal Mishra, learned counsel appears for the petitioner.

Mr. Pinaki Dhole, learned State counsel appearing for the respondent nos. 1 to 3 submits that, the income of

the family of the deceased employee was more than the cut off income as fixed under the rule, as a result, the appointment was rejected.

Mr. Dhole further submits that, subsequent to the said order dated **December 11, 2015** being passed , the petitioner made repeated representations for reconsidering the issue, such reconsideration is not permitted in law.

Learned counsel for the State further submits that, from the representations made by the petitioner it appears that, a cloud was created regarding the relationship between the petitioner and the deceased employee.

Be that as it may, from a close scrutiny of the impugned order dated **December 11, 2015** it appears that, in support of the finding of the respondent no.3 no material was disclosed or discussed as to how the respondent no.3 could arrive at the finding rejecting the compassionate appointment claimed by the petitioner. It is also not clear whether any fact-finding inquiry was made by the respondent no.3 before arriving at such a conclusion which is required to be made in law.

For the foregoing reasons and discussions the impugned order dated **December 11, 2015, Annexure-P2 at page 21** to the writ petition stands **set aside** and **quashed**.

The respondent no.3 shall revisit the issue on the basis of the materials available before it and then shall pass its reasoned order in support of the finding to be arrived at by the respondent no.3.

The entire exercise, as directed above, shall be carried out and completed by the respondent no.3 positively within a period of **four weeks** from the date of communication of this order.

The respondent no.3 then shall communicate its reasoned order to the petitioner positively within a period of **two weeks** from the date of the said reasoned order to be passed.

On the above terms this writ petition, **WPA 20563 of 2018** stands allowed, without any order as to costs.

It is made clear that, this Court has not gone into the merits of the claim of the petitioner and the respondent no.3 shall decide the issue by application of its independent mind and strictly in accordance with law.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

**(Aniruddha Roy, J.)**