

27th November, 2024
(D/L No.12)
Ct. No.4
(SKB)

W.P.S.T.213 of 2024

Sadhan Murmu
Versus
State of West Bengal and others

Mr. Dilip Kumar Chatterjee,
Mr. Durga Bhusan Mukherjee
....for the petitioner.

1. The petitioner before this court is claiming to be the son of a government employee who died-in-harness on 07.01.2001.
2. It is his case that the sister of the present petitioner made an application for compassionate appointment within the time frame stipulated in the Scheme. The petitioner at that point of time was a minor and ineligible for consideration.
3. It is the specific case of the petitioner that he attained majority in 2006. The application made by the sister was not being considered by the authorities. She relinquished her claim in favour of the petitioner as she had already been married of. The petitioner, thus, submits that in view of such relinquishment of claim in favour of the petitioner, he made an application to the authorities which has been declined.

4. The petitioner approached the Tribunal against rejection of such claim by the Principal Secretary of the Department of Agriculture on 22.09.2022. The O.A. No.29 of 2023 filed by the petitioner has been found to be causing a belated claim and disposed off. The same is sought to be assailed in the present proceedings.
5. The decision of the Tribunal is assailed by the learned counsel for the petitioner by submitting that the petitioner is a poor person and that the rejection is on a technical ground of delay and not on merits. Some facts which emerged from the original application filed by the petitioner before the Tribunal is that pursuing his claim for compassionate appointment, he had earlier approached the Tribunal by filing original application.
6. The O.A.No.11597 of 2008 was disposed of on 25.01.2008. In compliance thereto, the authorities passed a reasoned order on 15.03.2008 rejecting his claim. The rejection of March, 2008 was assailed by the petitioner about nine years thereafter by filing O.A. No.1175 of 2017. Finding the petitioner's claim for compassionate appointment to be belated, the

O.A. No.1175 of 2017 also stood dismissed on such ground on 28.08.2018.

7. The learned counsel for the petitioner submits that the petitioner's claim was pending and, therefore, he has reagitated the matter. In support of such contention, he has referred to a communication dated 24.12.2019 to show that in the list of pending cases the petitioner's claim is shown to be pending at Sl. No.8.
8. We find from a bare perusal of the said table relied upon by the petitioner that the same is in respect of an application filed on 07.06.2019 by the petitioner, more than a year after his claim for compassionate appointment was considered and rejected by the authorities as well as the Tribunal, as noted above. The order of the Tribunal passed in O.A. No.1175 of 2017 was also never assailed by the petitioner.
9. In these circumstances, whether filing of a fresh application would give the petitioner a fresh cause of action to pursue the same relief, which has been considered and declined by the Tribunal in the order dated 28.08.2018 passed in O.A. No.1175 of 2017, falls for consideration before us today.

10. At this juncture, we consider it appropriate to make a note that by now the law is well settled in this regard. The benefit of compassionate appointment is available and to be granted to those who are found entitled to such benefit as per the Scheme. It is also well settled by catena of judgments that the Scheme of compassionate appointment is framed by the respective State Governments or other instrumentalities so as to enable the family of the government servant to tide over the sudden crisis arising out of loss of the bread earner. It is also settled that it is not a mode of recruitment and that a person does not have a right unless he fulfills this requisite criteria and such belated claims of compassionate appointment have normally been held to be unsustainable.

11. In the present case, as we have seen, the first application was itself belated and rejected on 15.03.2008 by a reasoned order. The OA was filed challenging such a decision nine years thereafter. The O.A. No.1175 of 2017 filed by the petitioner was also dismissed on 28.08.2018. In respect of such a claim marred by delay a representation has again be made in 2019 knowing fully well that the issue has already been

decided by the competent forum and which decision of the Tribunal in O.A. 1175 of 2017 was not assailed by the petitioner. Such claim of the petitioner is barred not only on the ground of delay but also on the ground of laches.

12. Having regard to the facts and circumstances noted above, we find no reason to interfere with the order passed by the Tribunal in O.A. No.29 of 2023 in respect of the same claim. We would consider it appropriate to take notice of the Apex Court's decision in the case of ***Surjeet Singh Sahni Vs. State of U.P.*** reported in ***(2022)15 SCC 536*** wherein the Apex Court dealing with such belated claim based on repeated representations has held that the writ court should not exercise its jurisdiction in respect of such claims.

13. We, therefore, dismiss the writ petition.

14. There will be, however, no order as to costs.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)