

21
09.07.2024
Ct. No. 11
Jayanta

WP.ST 195 of 2023

Suman Majumder
Vs
The State of West Bengal & Ors.

Mr. Gourav Das
Mr. Hemanta Kumar Das
Ms. Poushali Das

.....For the petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Tuli Sinha

.....For the State/Respondents.

This present writ petition has been instituted to question the tenability of the order dated 12th October, 2018 passed by the learned Tribunal in O. A. 450 of 2016, whereby the original application (in short, OA) was dismissed.

The petitioner's father, who happened to be a health Assistant attached to the Dhubulia Health Centre (Block Primary Health Centre, District Nadia), died in harness on 24th January, 2010 leaving behind his widow, the petitioner's mother, and the petitioner.

At the time of death of the deceased employee, the petitioner was about 15 years old and upon reaching the age of majority, he presented an application to the concerned authority for his compassionate appointment.

The concerned respondent rejected the petitioner's prayer for compassionate appointment, citing the reason that the petitioner was a minor at the time of the death of the deceased employee and did not reach the age of majority within six

months from the date of death. Therefore, according to Notification No. 26 EMP dated March 1, 2016, the petitioner is not entitled to appointment on compassionate grounds.

Mr. Das, learned advocate representing the petitioner, submits that in view of subsequent notifications, the date for submission of representations by a candidate like the petitioner was extended up to three years. Therefore, the respondents should have considered the petitioner's prayer for compassionate appointment in the light of those subsequent notifications. He argues that the petitioner raised this issue before the learned Tribunal, but it glossed over it and failed to address it, which warrants interference of this Court.

In response, Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, submits that the petitioner's mother was also a permanent State Government employee, and during her service tenure, she received both her salary and the family pension.

He further submits that the petitioner's mother is currently drawing pension due to her past service and in addition to that, she is drawing family pension. Therefore, the family left by the deceased employee cannot be stated to be in financial distress. He asserts that the petitioner is not entitled to get appointment on compassionate ground. Furthermore, the petitioner was a minor at the time of the deceased employee. To invigorate his submission, he relies on a judgment delivered in the case of *State of Himachal Pradesh and Another – vs. – Shashi Kumar*, reported in, (2019) 3 SCC 653.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, at the time of death of the employee, the petitioner was a minor. He approached the authority with a prayer for compassionate appointment upon attaining the age of majority. The petitioner is not in a position to deny that the petitioner's mother happened to be a permanent State Government employee, and after her retirement, she has been receiving her pension and the family pension. The family has received death-cum-retirement benefits of the deceased employee as well as her terminal benefits. Therefore, the family cannot be stated to be in penury, which would warrant compassionate appointment.

Needless to observe that the underlying object of the scheme for compassionate appointment is to provide immediate succour to a penurious family to tide over the sudden crisis in which it has been plunged due to untimely demise of its sole bread-earner. Such appointment cannot be claimed to be as a vested right and it cannot be offered after a significant period has elapsed or once the acute financial crisis has been alleviated or if there is no financial hardship.

Having regard to these facts and circumstances, the learned Tribunal refused to exercise its discretion in favour of the petitioner. We do not find any infirmity or substantial miscarriage of justice or jurisdictional error, let alone any patent error in the order under challenge in this writ petition warranting interference with the same.

In view thereof, the writ petition is disposed of, however, without any order as to the costs.

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty,J.)