

Form No. J (2)
Item No.30ML
Court No.26

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 2480 of 2023
IA NO: CAN/2/2023

Sayantan Mondal
VS.
The West Bengal State Electricity
Distribution Company Limited & ors.

For the Appellant : Mr. Siddhartha Sarkar, Advocate
Mr. Prasad Bhattacharyya, Advocate
Mr. Hirak Ray, Advocate

For the WBSEDCL: Mr. Debanjan Mukherjee, Advocate

Heard on : 12.06.2024

Judgement on : 12.06.2024

DEBANGSU BASAK, J.

1. The appeal is directed against order dated May 2, 2023
passed in W.P.A.8587 of 2023.

2. By the impugned order, learned Single Judge declined to grant relief to the appellant in respect of a requirement of a claim for compassionate appointment of the appellant.

3. By consent of the parties, the appeal is treated as on day's list and is taken up for consideration on the basis of the papers available in the stay application.

4. Learned advocate appearing for the appellant submits that, father of the appellant was an employee with the respondent/WBSEDCL. Father of the appellant expired on December 18, 2012. The appellant was pursuing higher studies at the material point of time. He obtained M.Tech degree in 2016. Appellant applied for compassionate appointment on October 31, 2015. Such application for compassionate appointment was rejected on February 10, 2021. Aggrieved thereby, the appellant filed the writ petition.

5. Learned advocate appearing for the appellant submits that, the appellant suffered an accident by reason of which, the appellant is presently 70% disabled. He refers to documents annexed to the application for stay and contends that, the authorities are inclined to reconsider the appointment of

appellant on compassionate ground. He also refers to the order dated February 28, 2024 by the coordinate Bench.

6. Learned advocate appearing for the respondent/WBSEDCL submits that, in terms of the order dated February 28, 2024 instruction from his client is that his client is not in a position to reconsider the prayer for compassionate appointment in view of the policy decision of the client as enumerated in the writing dated May 6, 2010. He submits that, the appellant does not satisfy the physical eligibility criteria laid down with regard to engagement of an employee with the respondent/WBSEDCL. He also points out that, the appellant filed a subsequent writ petition, after dismissal of the first writ petition, by suppressing the material fact of filing of the first writ petition. He draws the attention of the Court to the order dated October 9, 2023 passed in W.P.A. No.21931 of 2023.

7. Father of the appellant was an employee of the respondent/WBSEDCL. At the time of his death, father of the appellant was working as Senior Sub Assistant Engineer with the respondent/WBSEDCL. Father of the appellant expired on December 18, 2012. Appellant filed application in prescribed

format on October 31, 2015. Such application for grant of compassionate appointment was rejected on February 10, 2021. The appeal was filed in 2023. By the impugned order, the learned Single Judge dismissed the writ petition on the ground of long passage of time from the date of death of the father of the appellant till the filing of the writ petition.

8. Compassionate appointment is extended to the family of the deceased to tide over the immediate financial difficulties faced by the family of the deceased employee. In the facts of the present case, the application for compassionate appointment was made after expiry of 2 and ½ years from the date of death of the deceased employee. There is no explanation for the delay. Such delay presupposes that, the family of the deceased was not in immediate financial assistance.

9. Application for compassionate appointment was rejected on February 10, 2021 i.e. after period of about 6 years from the date of the application and a period of 9 years from the date of death. For all these time, the appellant was able to survive.

10. Financial position of the appellant is not disclosed in the writ petition.

11. Appellant possesses M.Tech degree.

12. Physical disability is a ground canvassed before us in order to allow the compassionate appointment.

13. Physical disability of the appellant is such that it does not mean the criteria laid down for appointment of an employee of the respondent/WBSEDCL should be diluted. Appellant is not seeking appointment in the category reserved for physically challenged. He is seeking compassionate appointment in the died in harness category where he is required to meet the requisite criteria of such category. Requiring the respondent to dilute a standard prescribed by it in writing, in respect of physical qualifications of an employee, may adversely affect the entire recruitment process of the respondent/WBSEDCL. Respondent is a Electricity Distribution Company. Requiring the respondent as an Electricity Distribution Company to dilute physical parameters for grant of appointment may be inimical to public interest.

14. In such circumstances, we find no ground to interfere with the impugned order of the learned Single Judge.

15. MAT 2480 of 2023 along with IA NO: CAN/2/2023 are disposed of without any order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

17. I agree.

(Md. Shabbar Rashidi, J.)