

04.10.2024
Court No.2
Sl. No.5
KB

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A 1983 of 2024

Smt. Bony Das
-versus
The State of West Bengal & Ors.

Mr. Kumar Shantanu
...For the Petitioner.

Mr. Nabankur Paul
Mr. Pradip Sarkar
... For State.

1. The petitioner is a divorcee daughter of a deceased employee of the District Library Office, Jalpaiguri under the Mass Education and Library Services, Government of West Bengal. She claims compassionate appointment as her mother died-in-harness on 21st December, 2022.
2. The authority considered the prayer of the petitioner and was of the opinion that she was not eligible for compassionate appointment in terms of the clause in Memo No.26-Emp dated 1st March, 2016 of the Labour Department Employment Cell mentioning that a divorced daughter who became dependant on the family and the divorce petition was filed before the death/permanent incapacitation of the

Government employee is ineligible to be considered for appointment.

3. Admittedly, in the instant case the application seeking divorce was filed by the petitioner after the death of her mother and the decree of divorce was obtained ex parte on 30th June, 2023.
4. It has been submitted by the learned advocate representing the petitioner that the Memo relying on which the claim of the petitioner stood rejected has since been revised by the Labour Department Notification no. Labr/419/Law dated 4th November, 2022 published in the Kolkata Gazette Extraordinary on 5th November, 2022 wherein the clause relating to entitlement of job under compassionate appointment in respect of a divorcee daughter has been omitted.
5. The said notification dated 4th November, 2022 has been placed before this Court. It appears that the entire clause relating to the divorcee daughter has been omitted by the department.
6. The Hon'ble Three Judges Bench of this Court in the matter of State of West Bengal & Ors. vs. Purnima Das reported in (2017) SCC Online 1312` held that a daughter irrespective of the fact whether she is married, unmarried or divorcee should be treated as a dependant family member and should not be rejected at the threshold. The claim of the daughter

has to be decided in terms of the scheme for compassionate appointment on merits.

7. In view of the notification published by the State on 4th November, 2022 the distinction between divorcee daughter who became dependant on the family and the divorce petition was filed before the death/permanent incapacitation of the employee has been taken away.
8. Accordingly, the authority is required to re-visit the issue all over and again.
9. The instant writ petition is disposed of by directing the District Library Officer, being the respondent no.6 herein to re-consider the prayer of the petitioner seeking compassionate appointment in accordance with the prevailing rules and guidelines and dispose of her prayer by passing a reasoned order at the earliest but positively within a period of six weeks from the date of communication of this order.
10. A reasoned order shall be passed and communicated to the petitioner immediately thereafter.
11. In the event the petitioner is found eligible for appointment, then necessary consequential steps shall be taken forthwith.
12. The writ petition stands disposed of.

13. Urgent certified photocopy of this order, if applied for, be supplied to the parties upon compliance of usual legal formalities.

(Amrita Sinha, J.)