

13.05.2024
Item No.11
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IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

WPA/3303/2022

ANAMIKA DEY
VS
THE STATE OF WEST BENGAL & ORS.

Mr. Ekramul Bari (VC)
..for the Petitioner.

Mr. Subir Kumar Saha, AGP
Mr. Momenur Rahman
..for the State

The petitioner on the death of her father applied for compassionate appointment. By a letter dated 1st September, 2017 the Chairman, District Primary School Council, Jalpaiguri recommended the appointment of the petitioner on compassionate ground in the post of Group-C to the District Inspector of Schools, Secondary Education, Jalpaiguri. The District Inspector of Schools, Secondary Education, Jalpaiguri in turn requested the Chairman/Secretary, West Bengal Regional School Service Commission, Northern Region, Malda for giving the petitioner appointment under compassionate ground. In Clause 9 of the said recommendation which appears at page 32 of the

writ petition it is stated “Applied for the post : Gr. ‘C’/Gr. ‘D’ : **Gr. ‘D’.**”

It is the case of the petitioner that she never applied for Group-D post. Her application was for Group-C post. The initial recommendation by the Chairman, District Primary School Council, Jalpaiguri is for Group-C post but in a unilateral manner the District Inspector of Schools, Secondary Education, Jalpaiguri has stated that the petitioner has applied for Group-D post. The petitioner was offered Group-D post which she accepted by signing a declaration on 27th July, 2018. Immediately after joining in Group-D post the petitioner had made a representation before the District Inspector of Schools, Secondary Education, Jalpaiguri. The petitioner says that her representation has remained unaddressed.

It is now well settled that compassionate appointment is given not as a matter of right but on a humanitarian consideration to enable the family of the deceased employee to tide over the financial hardship faced by such family owing to the loss of the bread earner. The compassionate appointment is granted strictly in terms of the prevailing scheme and rules, if any pertaining thereto. Looking into the matter from this angle, since it is a policy decision, the interference of the Court is very limited that too

when the petitioner has accepted the appointment in Group D post. However, in this case there is an initial recommendation for giving appointment to the petitioner under Group-C post. This recommendation, however, gets changed when it is further forwarded to the higher authority. Unilaterally the recommendation from Group-C becomes that of Group-D by stating that the petitioner has applied for Group-D when she had applied for Group-C. Otherwise also the initial recommendation could not have been for appointment in Group-C post, if the petitioner had applied for Group D post. The acceptance of appointment to Group D post in this case will not amount to waiver of the petitioner's right to get her grievances considered, firstly because she could not have refused the appointment owing to practical difficulties and secondly, since the petitioner raised protest immediately after accepting the appointment.

In the aforesaid facts and circumstances, I find some substance in the petitioner's grievances. As such, the Secretary, School Education Department (Secondary Branch), Government of West Bengal being the respondent no.1 is directed to dispose of the petitioner's representation by treating this writ petition as her representation. The respondent no.1 shall give a personal hearing to the

petitioner and dispose of the representation within 31st July, 2024 by a reasoned order. Immediately upon passing of the reasoned order, the same should be communicated to the petitioner.

It is made clear that I have not gone into the merits of the matter and the respondent no.1 shall be free to decide on all points afresh and independently.

Nothing further remains to be adjudicated in this writ petition.

The writ petition stands disposed of.

(ARINDAM MUKHERJEE, J.)