

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:-

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Supratim Bhattacharya

W.P.S.T. 6 of 2025

Arjun Kumar Saren

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Puranjan Pal.

For the Respondents : Mr. Tapan Kr. Mukherjee, ld. AGP,
Ms. Sangeeta Roy.

Judgment on : August 26, 2025

Madhuresh Prasad, J.:

1. English translated copies of annexures P-8 and P-9 have been provided earlier and are kept on record.
2. The West Bengal State Administrative Tribunal (SAT) vide Order dated 19.11.2024, has disposed of O.A. No. 818 of 2022, wherein the writ petitioner has assailed rejection of his claim for compassionate appointment by the authorities vide Memorandum No.2471 dated 30.08.2022. The order dated 19.11.2024 passed by the SAT is put to challenge in the present proceedings.

3. The brief factual background giving rise to the O.A. No. 818 of 2022, filed by the writ petitioner before the SAT is that the writ petitioner's father (Late Manjura Soren) died while in service on 14.07.2011, when he was posted as a constable in the Kolkata Police. The mother of the writ petitioner applied for compassionate appointment, which the authorities kept pending for a considerable period of time. Family of the deceased Government employee was found to be entitled and eligible for grant of benefit of compassionate appointment. The compassionate appointment was finally offered to the writ petitioner's mother after more than a decade, vide communication dated 17.06.2022 issued by the Senior Special Secretary to the Government of West Bengal, the Department of Home and Hill Affairs, Government of West Bengal, Police Establishment Branch. The approval was forwarded to the Commissioner of Police Kolkata who in turn requested the petitioner's mother to collect the prescribed form of verification role if she was willing to accept the offer of appointment. Communication to this effect was issued by the Administrative Officer in the office of the Commissioner of Police, Kolkata Administration (Establishment) Branch and the petitioner's mother was required to appear before the Board on or before 30.06.2022, along with the certificate in original regarding proof of age, caste and academic qualification, so that the suitable post may be determined.
4. In the mean time, the petitioner's mother had written a letter to the Joint Commissioner of Police, Kolkata on 05.05.2022, sending an intimation that she had been affected with cancer and was undergoing

treatment for the same. She sent medical certificate in this regard, and being faced with such a situation requested the authorities that her elder son (applicant/writ petitioner) may be considered for appointment on compassionate ground. Without considering such request of the petitioner's mother, the claim for compassionate appointment was processed and an offer of compassionate appointment was made in favour of petitioner's mother, as taken note of above.

5. Since the petitioner's mother was undergoing treatment for cancer, she could not appear before the Board as per communication dated 23.06.2022, issued by the Administrative Officer in the office of the Commissioner of Police, Kolkata. The petitioner's mother could not appear before the authority on 30.06.2022, since apparently she was breathing her last as she succumbed to cancer. The same is apparent from the Death Certificate dated 29.07.2022, showing her date of death as 20.07.2022 i.e. 20 days after the date fixed for her appearance before the authority on 30.06.2022.
6. After demise of the petitioner's mother, the petitioner wrote to the authorities requesting that since the family was found entitled and eligible for benefit of compassionate appointment he may be considered for grant of compassionate appointment instead of his mother who was not surviving. The petitioner's request has been rejected by a Memo being No. 2471 dated 30.08. 2022, issued by the Senior Special Secretary, Commissioner of Police, Kolkata assigning a reason that the claim cannot be considered as it is a claim for transfer

of offer of compassionate appointment, which is impermissible in terms of Clause 12(b) of Notification No. 251-Emp. dated 03.12.2013 (251-Emp for short). It is this order which the petitioner challenged before the SAT in O.A. 818 of 2022.

7. It is submitted by Mr. Ali, learned Senior Advocate representing the writ petitioner that the writ petitioner did not authorize Mr. G.P Banerjee, Advocate, whose name has been recorded in the order dated 19.11. 2024, in O.A. 818 of 2022, by the SAT as an Advocate for applicant. The Tribunal has therefore wrongly recorded petitioner's consent for disposal of the O.A. by a Single Member Bench of the SAT.
8. Referring to the provisions contained in 251-Emp., he submits that the same bars transfer of an offer of compassionate appointment to "*any other person*". The petitioner is son of Fulmani Devi who was offered compassionate appointment, and not "*any other person*". He has submitted that the bar under Clause 12(b) of 251-Emp, therefore, is not applicable in the case of the petitioner, where request is made by son, and not by just "*any other person*". Therefore, the provisions contained in Clause 12(b) of 257-Emp cannot be made a basis to reject the petitioner's claim.
9. Learned State Counsel, on the other hand, submits that the authorities have passed the order relying on Clause 12(b) of 251-Emp. It is trite law that compassionate appointment being in exception to the rule can only be claimed in strict compliance with the provisions contained in the Rule/Circular providing for compassionate appointment. Since Rule 12(b) clearly bars a transfer of offer of

compassionate appointment, the authorities had no option than to reject the petitioner's claim in terms of Clause 12(b) of 251-Emp.

10. We have heard the learned Advocate representing the parties and perused the material on record. Mr. Ali at the very outset raised an objection that Mr. G.P. Banerjee, Advocate, was not authorized by the petitioner. Such assertion has been made on affidavit in the present writ proceedings, therefore, the consent recorded in the impugned order dated 19.11.2024 passed by the SAT for the O.A. being considered by a Bench of a Single Member, is not binding upon the petitioner. If the consent was wrongly recorded in the Tribunal's order, then the applicant/ petitioner was required to bring it to the notice of the Tribunal by way of an appropriate application that also while the matter was still fresh in the mind of the Tribunal. Such issue in our considered opinion cannot be raised by making assertion or affidavit in this proceeding.

11. As regards other submission that the petitioner being son cannot be considered to be "*any other person*" for the purpose of Rule 12(b) of 251-Emp. We deem it useful to quote clause 12(b) of 251-Emp., which reads:

"12. Request for change in post/ person-

...

(b) An appointment offered/ made on compassionate ground cannot be transferred to any other person and any such request shall be rejected."

12. On plain reading of the provision, we are unable to agree with such submission. The expression "*any other person*" in Rule 12(b) clearly entails that an offer of compassionate appointment or benefit

of compassionate appointment cannot be transferred to anyone. It is, therefore, immaterial whether the transferee is the son, any other family member, or any person outside the family. Any offer of appointment, or any appointment on compassionate ground has been made nontransferable and inalienable, and status or relationship of the intended transferee is not relevant. In the present case, however, we find that there is no issue of transfer of an offer of compassionate appointment.

13. The petitioner's mother, during her lifetime herself had intimated the authorities regarding her suffering with cancer and undergoing medical treatment for the same. She had accordingly requested the respondent authorities to consider the present petitioner for appointment on compassionate ground. Ignoring such request the authorities proceeded to process the case of the petitioner's mother for compassionate appointment and offered compassionate appointment to his mother knowing fully well that she was not in a position to avail the benefit since she was suffering with cancer and undergoing treatment for the same. Within 20 days from the date of offer of compassionate appointment the petitioner's mother succumbed to the disease. It is under such circumstance that the writ petitioner made an application requesting the authorities to process the compassionate appointment in his favour. We, therefore, find that there is no issue of transfer involved.

14. A transfer of offer of compassionate appointment, or compassionate appointment may arise if a person who has been

offered the compassionate appointment or who has already been appointed on compassionate ground seeks to pass on such appointment to any other person. In the present case though compassionate appointment was offered to the writ petitioner's mother but she was not surviving. Therefore, there is no case of transfer from a transferor to a transferee.

15. The purpose and object of a compassionate appointment, in exception to the general rule of recruitment is to relieve the family of a Government employee, from the financial crisis arising out of sudden demise of the bread winner, i.e. the Government employee dying-in-harness. The scheme for compassionate appointment envisages grant of an appointment on compassionate ground to an individual who comes within the definition of dependent family member under Clause 3 of 251-Emp. Clause 11 of the scheme contemplates giving of an yearly undertaking by the person taking the appointment on compassionate ground that he will properly maintain the family members who were dependent on the Government employee in question. Clause 11 further contemplates the compassionate appointment to be terminated for violation of such undertaking. The compassionate appointment, therefore, is granted to a dependent family member, but for benefit of the "*family*" of the deceased Government employee which is left in destitute on account of sudden loss of the bread earner.

16. Eligibility is prescribed in Clause 6 of 251-Emp, which contemplates grant of compassionate appointment to be subject to a

finding by the authorities that the financial condition of the “*family*”, is indigent and deserves immediate financial assistance, after taking into consideration the family’s sources of the income.

17. It is not in dispute that in the present case the financial condition has been assessed and the family of the deceased Government employee has been found deserving of compassionate appointment. Since it was not possible for the mother (wife of deceased) to take up the compassionate appointment for benefit of the family, as she did not survive to avail the appointment there is no issue of transfer of offer of compassionate appointment. The issue arising for consideration is whether in such circumstance the family of the deceased Government employee which has already been found deserving of the benefit of compassionate appointment should be deprived of such benefit due to sudden demise of the wife of the deceased Government employee. In our opinion, such a situation cannot be countenanced. The family of the deceased Government employee, being the intended beneficiary under the scheme 251-Emp., in the circumstances cannot be deprived of the benefit of compassionate appointment. The object and purpose of the scheme of compassionate appointment would stand frustrated if the petitioner was denied consideration, being otherwise eligible under the scheme.
18. Entitlement of the family having been favourably ascertained, the compassionate appointment was required to be processed for the benefit of the “*family*”.

19. Due to lapses committed by the respondents in not considering the mother's intimation regarding her incapacity on medical grounds (cancer treatment), during her lifetime on 05.05.2022, the authorities processed the appointment on compassionate ground in favour of the mother of the petitioner instead of the present petitioner. It is under such circumstance that offer made in favour of the petitioner's mother could not be availed by her on account of her demise. Due to such lapses committed on the part of the respondent authorities the family of the deceased Government employee which was already assessed to be entitled to the benefit, cannot be deprived of the benefit.
20. We are of the considered view that the Clause 12(b) of 251 Emp. is not applicable to the facts and circumstances in the present case.
21. The order of rejection dated 30.08.2022, impugned before the SAT, relying upon Clause 12(b) is, therefore, unsustainable and is hereby quashed.
22. The authorities should consider and process the petitioner's claim and offer appointment on compassionate ground to the petitioner subject to fulfillment of norms/ medical examination, verification role, etc. as required under the Rules. Since financial status of the family has already been eligible, we direct the entire process to be completed within 3 months from the date of receipt/ production of a copy of this order.

23. The writ petition is allowed. Pending applications, if any, stand disposed of. The original Application O.A. 818 of 2022 also stands allowed.
24. There will be no order as to costs.
25. Parties will be at liberty to get urgent certified copy of this judgment and order upon fulfillment of all necessary formalities and payment of requisite court fees.

(Madhuresh Prasad, J.)

I agree.

(Supratim Bhattacharya, J.)

(A.D.)