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2025

Ct. No.
07

Ab

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE.**

WPA 1719 of 2017

**Smt. Jharna Banerjee and another
Vs.
The State of West Bengal and others.**

**Mr. Ujjal Ray,
Mr. Atreya Chakraborty.
... for the petitioners.**

**Ms. Tapati Samanta.
... for the State.**

1. The justifiability of the order dated 2nd December 2015, passed by the Director of Library Services, West Bengal, pursuant to the order of the Co-ordinate Bench of this Court dated 7th September 2015 in W.P. No. 25360(W) of 2014, has been called in question in the present writ petition. The order dated 2nd December 2015 rejected the petitioners' claim for compassionate appointment. Additionally, the petitioners pray for a writ of mandamus commanding the concerned respondents to appoint Petitioner No. 2 on compassionate grounds to any suitable post.
2. Succinctly stated, the facts as set forth in the writ petition are that the father of Petitioner No. 2 was employed as a Librarian under the District Library Officer, Hooghly, and he died in harness on 20th February 2013. He was survived by Petitioner No. 1, his widow, and Petitioner No. 2, his married daughter. Subsequently, Petitioner No. 1 submitted a representation to the concerned authority,

seeking the appointment of Petitioner No. 2 on compassionate grounds. The record further discloses that Petitioner No. 2 herself submitted a representation dated 5th July 2013, seeking employment assistance on compassionate grounds.

3. However, despite the submission of the aforesaid representations, no effective action has been taken by the concerned respondents. Aggrieved by the inaction of the competent authority in considering their representations, the petitioners filed an Original Application being OA No. 1492 of 2013 before the learned West Bengal Administrative Tribunal. The said application, however, was dismissed, with liberty granted to the petitioners to seek remedy before the appropriate forum.
4. Subsequently, the petitioners filed a writ petition being W.P. No. 25360(W) of 2014, which was disposed of by a Co-ordinate Bench of this Court on 7th September 2015, directing the Director of Library Services to consider the petitioners' claim for compassionate appointment after affording them an opportunity of hearing and taking note of the precedents set in the judgments referred to in the said order. Pursuant to this direction, a hearing was conducted by the Director of Library Services, who, by the impugned order in the present writ petition, rejected the claim of Petitioner No. 2 for compassionate appointment. Hence, this writ petition.
5. Mr. Ujjal Ray, learned advocate, assisted by Mr. Atreya Chakraborty, learned advocate representing the

petitioners, submits that the order dated 2nd December 2015 fails to take into consideration the decision of the Hon'ble Special Bench reported in (2017) 4 CHN 362 (State of West Bengal & Ors. v. Purnima Das & Ors.). The Director of Library Services appears to have proceeded on the premise that a married daughter is not entitled to the benefit of compassionate appointment. However, the issue as to whether a married daughter is entitled to compassionate appointment has been conclusively settled by the Hon'ble Special Bench in the judgment of Purnima Das & Ors. (supra).

6. He further submits that while adjudicating the representation of Petitioner No. 2, the Director of Library Services failed to consider whether Petitioner No. 2, despite being the married daughter of the deceased employee, was entitled to compassionate appointment, and whether she satisfied the conditions laid down by the Hon'ble Special Bench in the judgment of Purnima Das & Ors. (supra).
7. Ms. Tapati Samanta, learned advocate appearing on behalf of the State, submits that the deceased employee was employed in the Department of Mass Education and Library Science. She further submits that the Department introduced the scheme of compassionate appointment in the year 2009. Initially, the benefit of compassionate appointment was not extended to married daughters. However, she contends, by way of a subsequent

amendment, such benefit has since been made available to married daughters as well.

8. She further submits that since the present petitioners did not fulfill the prescribed conditions, the Director of Library Services rejected their claim. It is also submitted that Petitioner No. 2's brother is a government employee. However, in the interest of fairness, she concedes that the principles enunciated in the judgment of Purnima Das & Ors. (supra) were not considered by the Director of Library Services when deciding the claim of Petitioner No. 2. Accordingly, she submits that the matter may be remitted to the Director of Library Services for a fresh decision, duly taking into account the legal propositions laid down in the said judgment.
9. In view of the submissions made on behalf of the State, the order dated 2nd December 2015 is set aside. The Director of Library Services is directed to revisit and reconsider the claim of Petitioner No. 2 for compassionate appointment, having regard to the legal principles enunciated in the judgment of Purnima Das & Ors. (supra). Before passing any final order on the said claim, the Director of Library Services shall afford Petitioner No. 2 a reasonable opportunity of hearing and shall examine whether Petitioner No. 2 is entitled to compassionate appointment.
10. However, it is clarified that the Director of Library Services shall not reject the representation of Petitioner No. 2 solely on the ground that she is the married

daughter of the deceased employee.

11. It is further clarified that this Court has not gone into the merits of Petitioner No. 2's claim for compassionate appointment. All issues are left open for determination by the Director of Library Services at the time of reconsideration of the matter.
12. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a certified copy of this order, in accordance with the provisions of the scheme prevailing at the time of the death of the deceased employee.
13. With these observations and order, the writ petition is disposed of.

(Partha Sarathi Chatterjee, J.)