

Item-
19. 08-04-2025

FMA 587 of 2025
CAN 2 of 2025

sd/sg

Ct. 8

Sanghita Maity alias Sanghita Maiti
Vs.
State of West Bengal & Ors.

Mr. Saikat Banerjee, Sr. Adv.
Ms. Juin Dutta Chakraborty
Mr. Bidan Modak
Mr. Shirsho Banerjee
Ms. Arpita Kundu

... for the appellant

Mrs. Koyeli Bhattacharyya
Mr. Bibek Dutta
Ms. Keya Panja

...for the WBBSE

Mr. Supriyo Chattopadhyay, AGP
Mr. Mrinal Kanti Ghosh

...for the State

1. The affidavit of service filed in Court is taken.
2. A prayer of one of the daughters of an Assistant Teacher in a Government Aided School for companionate appointment was rejected by the learned Single Judge in the writ petition on 12th July, 2024 thereby giving rise to this appeal.
3. The father of the petitioner died-in-harness on 10th April, 2012. The writ petitioner approached the authorities concerned on 3rd October, 2012 and 8th October, 2012 followed by a further application dated 8th October, 2012 with relevant documents for appointment under died-in-harness category in any school.

4. Due to non-consideration of the representation, a writ petition was filed being WP 3372(W) of 2014. The said writ petition was disposed of on 11th February, 2014 directing the authority concerned to dispose of the said representation within a period of two months from the date of communication of that order. The application for compassionate appointment was rejected by the District Inspector of Schools on the ground that the monthly income of the family of the deceased teacher was higher than the initial gross salary of the Group-D staff at the material point of time. It was further indicated that the family pension of the mother of the petitioner was Rs.14,380/- whereas the gross salary of a Group-D staff at the material point of time was Rs.10,860/-.
5. The learned Counsel appearing for the petitioner submits that due to unavoidable reasons and circumstances, the said order could not be challenged in any manner and in view of the matter, the District Inspector of Schools could not have denied the compassionate appointment on the ground stated in the said order.
6. The learned Counsel has relied upon a decision of the Hon'ble Supreme Court in Civil Appeal NO. 13806 of 2024 (Arising out of SLP (C) No. 26568 of 2023) (Ram Autar Singh Yadav vs. The State of Uttar Pradesh & Ors.) decided on 4th December, 2024, to argue that when there is a breach of duty, delay and laches may not be relevant inasmuch, as by reason of such delay no third

party interest has been created or would be affected if ultimately the writ petitioner is given an appointment.

7. We are unable to accept the said submission. The observation of the Hon'ble Supreme Court in paragraphs 20 to 23 was not in the context of any appointment in died-in-harness category. It is well-settled that the appointment under such scheme is an exception to the general rule of an appointment and the purpose was to give immediate succour to the family members of the deceased so that the family members could tie over the difficulties.
8. Long passage of time creates a presumption that there is no financial distress for which the avenue for compassionate appointment can be pursued. In the writ petitioner there is no explanation for the delay in approaching the Court for almost ten years.
9. The learned Single Judge has relied upon a decision and while dismissing the writ petitioner, has correctly observed that in several decisions of the Hon'ble Supreme Court it has been emphasized that the immediate financial hardship is a reason for which a compassionate appointment is allowed.
10. When the family of the deceased teacher survived for a period of ten years after the order was passed on 19th September, 2014, it can safely be concluded that there is no financial hardship or requirement.

11. On such consideration, we do not find any reason to interfere with the order impugned. The appeal and the connected application are dismissed.

(Soumen Sen, J.)

(Smita Das De, J.)