

D/L 17
06.02.2025
Court No.14
PRADIP

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 5092 of 2024

Md. Reja Tahsien Ansari
Vs.
The State of West Bengal & Ors.

Mr. M.N. Roy
Mr. Biswarup Nandy

...for the Petitioner.

Mr. Sk. Md. Galib
Mr. Kapil Guha

...for the State.

1. Instruction forwarded by the OSD & ex-officio Joint Secretary, Law Department, Government of West Bengal signed on 28th January, 2025 is taken on record.
2. The petitioner intends to be appointed on compassionate ground as Muslim Marriage Registrar (for short 'MMR') of Mogra P.S area, District-Hooghly on the death of his father who was an MMR and who died on 24th October, 2019.
3. Seeking compassionate appointment, the elder son of the deceased MMR applied for appointment on 25th November, 2019. During the pendency of his application he was selected for government service in the year 2021. By a letter dated 16th July, 2021, he applied before the authority relinquishing his claim to the job and also requested the authority to consider the application of his brother, the petitioner herein, for being appointed as MMR on compassionate ground. The petitioner, on the same date, submitted an application for being appointed as MMR on compassionate ground.
4. The application made by the petitioner stood rejected on 23rd June, 2023 being barred by limitation. Prayer for

reconsideration was made and the same also stood rejected on the same ground.

5. Being aggrieved, the instant writ petition has been filed.
6. Learned advocate for the petitioner submits that as per the order passed by the Hon'ble Supreme Court on **10th January, 2022** in **Miscellaneous Application No. 21 of 2022** in **Miscellaneous Application No. 665 of 2021** in **Suo Motu Writ Petition (C) No. 3 of 2020** with **Miscellaneous Application No. 29 of 2022** in **Miscellaneous Application No. 665 2021** in **Suo Motu Writ Petition (C) No. 3 of 2020** the period from 15th March, 2020 to 28th February, 2022 has been excluded for the purpose of limitation under any general or special law in respect of all judicial and quasi judicial proceedings.
7. It has been submitted that, as Covid set in from March, 2020, accordingly, the petitioner could not file his application in proper time and as the period from 15th March, 2020 to 28th February, 2022 has to be excluded for the purpose of limitation, accordingly, his application ought not to have been rejected.
8. Prayer has been made to set aside the ground of rejection and direct the authority to reconsider the application seeking compassionate appointment on merit.
9. Learned advocate representing the State respondents relies upon the instruction forwarded by the OSD & ex-officio Joint Secretary, Law Department, Government of West Bengal wherefrom it appears that, the application made by the brother of the petitioner on 21st November, 2019 was considered and the department accorded approval to the proposal for consideration of the application as temporary MMR on compassionate ground, but prior to the issuance of the order of approval by the State Government, the applicant withdrew his

prayer and sought appointment of his brother, the petitioner herein, for appointment as temporary MMR, on compassionate ground, in his place. As the application of the petitioner was filed long after the six months' time period, accordingly, the same stood rejected.

10. I have heard the submissions made on behalf of the parties and have perused the materials placed before this Court.
11. There is a prescribed time period for submitting application for being appointed on compassionate ground. The case of the petitioner is that, as Covid set in within the prescribed period of limitation, accordingly, application could not be made within the prescribed time period.
12. Prayer has been made to exclude the period from 15th March, 2020 to 28th February, 2022 for calculating limitation, in compliance of the order passed by the Hon'ble Supreme Court.
13. It appears from record that the brother of the petitioner applied within the prescribed time limit but he relinquished his claim for appointment on 16th July, 2021, that is, long after expiry of the prescribed period of limitation. Had the brother of the petitioner given up his right within the period of limitation, and the said time period coincided with the period directed to be excluded by the order of the Hon'ble Supreme Court, then the prayer of the petitioner could have been accepted.
14. The brother of the petitioner, in his communication dated 16th July, 2021 annexed as P5 to the writ petition, clearly stated that he had been selected for government service in the year 2021 and, as such, he intends to transfer his appointment in favour of his brother. The brother of the petitioner relinquished his claim for compassionate appointment long after the prescribed period of limitation. The cause of action for claiming appointment by the petitioner arose in July 2021 and not prior thereto.

15. It is not that because of the pandemic, the petitioner was unable to file the application within the stipulated time period. The application of the petitioner seeking compassionate appointment has to be taken as a fresh one filed in July 2021. There is no provision in law permitting an applicant to relinquish claim for compassionate appointment after the same was processed and thereafter transfer such claim in favour of another applicant. Covid is certainly not the reason for delayed filing of the application seeking compassionate appointment.
16. The Court is of the opinion that, in the present facts and circumstances, the order of the Hon'ble Supreme Court directing exclusion of the period for the purpose of limitation, will not come to the aid of the petitioner in any manner. The authority rightly rejected the claim of the petitioner being time barred. The Court, accordingly, refrains from interfering with the impugned order of rejection.
17. From the instruction forwarded by the law department, it appears that, the State Government has constituted a District Committee for selection of MMR in the District of Hooghly. It will be open for the petitioner to apply for appointment for MMR in accordance with law as and when applications are invited.
18. The writ petition stands disposed of.
19. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all the requisite formalities.

(Amrita Sinha, J.)