

17.07.2025.  
Item No. 2.  
Court No. 13  
ap

**M.A.T. No. 401 of 2025**  
**With**  
**I.A. No. CAN 2 of 2025**

**State of West Bengal & Ors.**  
**Versus**  
**Sudipta Bhowmik**

Mr. Suman Sengupta,  
Ms. Amrita Panja Moulick.

...For the appellants.

Mr. Debabrata Saha Ray, Id. Sr. Advocate,  
Mr. Sujit Kumar Rath,  
Mr. Shankha Biswas.

...For the respondent no.1.

1. The instant intra court appeal is directed against judgment and order dated 22<sup>nd</sup> January, 2025 passed by a learned Single Judge of this Court in W.P.A. No.29683 of 2024 whereby the decisions of the State rejecting the petitioner's prayer for compassionate employment as Fair Price Shop Dealer dated 10<sup>th</sup> September, 2024, and 18<sup>th</sup> November, 2024 were set aside.

2. The facts of the case are briefly stated as follows:

3. The writ petitioner/respondent applied for Fair Price Shop Licence sometime in the middle of 2023. The application was made on compassionate grounds for having little or no income. The appellant, having found that the writ petitioner had a means of income and was not on starvation and penury, rejected his application.

4. Such finding of the appellant was based on the application of the writ petitioner himself where he disclosed that he was receiving a monthly pension of Rs.22,500/-.
5. Against the refusal the writ petition was filed and it was argued before the Single Bench that the FPS pension scheme is contributory and is sanctioned by the PFRDA under a specific statute called the NPS Act.
6. Given the paltry sum being paid to the writ petitioner, the Single Bench was of the view that the writ petitioner did not have a sufficient source of income or a regular means of income. The Court relied upon a decision of another Single Bench in the case of ***Biswajit Sen Vs. The State of West Bengal and Ors.*** and also purported to apply the dicta of the case of ***Tapan Kumar Barman Vs. State of West Bengal & Ors.*** reported in **(2009) 1 CHN 23**. Placing further reliance on the decision of the Supreme Court in the case of ***State of HP and Anr. Vs Sashi Kumar*** reported in **(2019) 3 SCC 653** the Single Bench came to the conclusion that the writ petitioner/respondent was entitled to compassionate engagement as FPS dealer.
7. This Court has carefully heard the arguments of Mr. Suman Sengupta and Ms. Amrita Panja Moulick, learned advocates appearing for the State

of West Bengal. This Court has also heard Mr. Debabrata Saha Ray, learned Senior Advocate appearing for the respondent/writ petitioner.

8. Having considered the material available on the record and the impugned order, this Court is of the clear view that the Single Bench has committed error both in facts as well as law. On the factual score this Court notes that placing reliance on the decision of ***Biswajit Sen (supra)*** was possibly erroneous since the said decision has been stayed by this Court on 3<sup>rd</sup> July, 2025 in MAT 1615 of 2024 (***The State of West Bengal and Ors. Vs. Biswajit Sen***).
9. The argument advanced by Mr. Debabrata Saha Ray on facts that the male child of the writ petitioner/respondent, who was above two years as on the date when the matter was dealt with by the Single Bench, was suffering from Kidney failure, cannot be factored in by this Court. The reason, therefor, is that the army personnel have completely subsidized or free treatment at the Armed Forces Medical College in Pune and other parts of the country. The documents annexed to the writ petition indicated that the writ petitioner's child was being treated in Pune.
10. The writ petitioner by no stretch of imagination can be stated to be in penury or hand to mouth or

living below a basic standard since in addition to Rs.22,500/- of pension, army personnel get the benefit of subsidized rations and needs of daily life from the Canteen Stores Department (CSD) run for the benefit of all armed forces and paramilitary forces of this country. By reason of the aforesaid facilities available to the writ petitioner and notional adding thereof to the income of the writ petitioner takes it far above Rs.22,500/-.

11. Admittedly, therefore, the writ petitioner had a regular source of income. This Court in a number of cases earlier and the Hon'ble Supreme Court in the recent decision of **Canara Bank Vs. Ajithkumar G.K.** reported in **2025 SCC OnLine SC 290** inter alia at paragraph 29 has expounded the object and principle behind compassionate appointment. The object of such compassionate appointment is to ensure that upon the death of the sole bread winner of the family, they should not fall into starvation and complete penury. They would be left completely hand to mouth and without any source of income even qualifying them as BPL.

12. Admittedly, compassionate appointment is not a regular source of appointment. It is allowed only when there is a scheme prescribed therefor by the organization concerned. It is an exception to the regular source of appointment.

13. In the instant case, the State of West Bengal does not have any scheme for compassionate appointment of persons of retired defense persons or otherwise for the purpose of allotment of FPS or any licence under a controlled order in question.
14. Learned Single Judge has, therefore, committed error in appreciating the scope of compassionate appointment and has misconstrued compassionate employment with compassionate appointment in issuance of FPS licence.
15. For the reasons stated hereinabove, the impugned order dated 22<sup>nd</sup> January, 2025 passed by the Single Bench in WPA 29683 of 2024 (***Sudipta Bhowmik Vs. State of West Bengal & Ors.***) cannot be sustained in law and is hereby set aside.
16. Accordingly, MAT 401 of 2025 is hereby allowed and disposed of. Consequently, all connected pending applications, if any, are also disposed of.
17. There shall be no order as to costs.
18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

**(Rajasekhar Mantha, J.)**

**(Ajay Kumar Gupta, J.)**