

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

51 22.4.2025
Sc Ct. no.2

WPA 6784 OF 2025

Simanchal Mahankuda

Vs.

Coal India Limited & Ors.

Mr. Pralay Bhattacharjee

Ms. Tanusree Ghosh

Mr. Koushik Roy.

....For the Petitioner

Mr. Shiv Shankar Banerjee

Mr. Abhishek Chakraborty.

....For the Respondents

Affidavit-of-service, filed in Court today, is taken on record.

Mr. Pralay Bhattacharjee, learned Counsel with Ms. Tanusree Ghosh, learned Advocate appears for the petitioner.

Mr. Shiv Shankar Banerjee, learned Counsel appears for the respondents.

The petitioner claims compassionate appointment. The petitioner in **paragraph 3** of the writ petition has specifically admitted that the father, who is the deceased employee of the Coal company, had expired on **September 10, 1997**. The writ petition does not specify as to when an application was made by or on behalf of the petitioner claiming compassionate appointment. The

petitioner claims that due to natural calamity the petitioner has lost all the relevant records including the documents and particulars when the application was made seeking compassionate appointment. The writ petition shows for the first time on **August 16, 2023** an application was submitted under the **Right to Information Act, 2005, Annexure-P1 at page 19** to the writ petition to which the Coal company, the employer, has replied thereto by its communications dated **August 21, 2023** and **September 3, 2023, Annexures – P2 and P3 at pages 20 and 21** to the writ petition respectively. There has been nothing to show in between **1997 and August, 2023**.

In course of the hearing, learned Counsel for the petitioner has produced a computerized tabulated sheet and submits that the application of the petitioner is still pending. Learned Counsel submits that the necessary medical checkup, police verification everything was over at the relevant point of time and then the name of the petitioner was placed in the roll for compassionate appointment prepared by the employer.

Learned Counsel for the petitioner further submits that compassionate appointment is the beneficial scheme for the welfare of the society so that an untimely death of an employee of the employer shall not lead the family of the deceased to such a situation that the family has to starve. Accordingly, the petitioner claims compassionate appointment.

Mr. Shiv Shankar Banerjee, learned Counsel appearing for the Coal company has opposed the writ petition. He, at the outset, submits that, the writ petitioner is **56 years old today** as would be evident from the verification of the writ petition. He submits that a compassionate appointment is always there to meet an imminent crisis of the family of the deceased employee. In the facts of this case, the petitioner has waited **since 1997 till 2023** thus, there was never any imminent crisis and the family of the petitioner could survive for **more than 26 years** after the death of the employee.

Learned Counsel for the Coal company submits that the writ petition is totally devoid of any merit and is liable to be dismissed.

After considering the rival contentions of the parties and upon perusal of the materials on records, this Court, at the outset, reiterates the law already settled on compassionate appointment.

Compassionate appointment is a welfare policy of the State/employer. Compassionate appointment cannot be claimed as a matter of right, it is always the discretion of the employer. Compassionate appointment was thought of to meet the imminent crisis of the family, immediately after the untimely death of the breadwinner of the family, who is the employee of the concerned employer. Compassionate appointment is not an alternative mode of generation of employment.

Applying the said settled principle of law, in the facts of this case, this Court is of the view that, there was never any imminent crisis faced by the family of the deceased employee. Had it been so, the petitioner would have applied before this Court immediately after the death of the employee being his father when the application made for compassionate appointment was kept pending.

Till **August, 2023**, the record shows that there was no whisper on the part of the petitioner for enforcement of his claim for compassionate appointment, though not a matter of right. If such a grossly belated claim is entertained, the welfare object of the scheme, as discussed above, would be frustrated.

After about **26 years** of the death of the employee, there cannot be any imminent requirement for survival of the family of the deceased employee. The claim was never pursued contemporaneously.

While exercising equitable jurisdiction by this Constitutional Court under Article 226 of the Constitution of India, in the facts like this, this Court is also of the view that the petitioner is not also entitled to any equitable relief. Delay defeats equity. There is no vested right created in favour of the petitioner.

In view of the foregoing reasons and discussions, this Court is of the considered and firm view that, this writ petition is totally devoid of any merit and is liable to be dismissed in limine.

Accordingly, this writ petition **WPA 6784 of 2025** stands ***dismissed***, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)