

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
(APPELLATE SIDE)**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 6494 of 2019

Dipanwita Mondal Sardar

vs.

The State of West Bengal & Ors.

For the Petitioner

: Mr. Ekramul Bari,
: Mr. Imtiaj Uddin,
: Mr. Alauddin Ahmed.

For the State

: Mr. Pinaki Dhole,
Mr. Avishek Prasad.

Heard on

: 28.02.2025

Judgment on

: 28.02.2025

Rai Chattopadhyay, J.

1. The writ petitioner is the applicant for appointment in died-in-harness category after death of her father, who happened to be a non-teaching employee of the school. The father of the petitioner died on May 16, 2014.

2. The petitioner has suffered two rounds of rejection order from the respondent/District Inspector of Schools, Secondary Education, South 24 Parganas. The first one being on September 14, 2017 and the latest one, which is impugned in the present writ petition is dated July 27, 2018. On both the occasions, though two different Government Notifications have been relied on by the said respondent authority, to turn down the petitioner's prayer, but the ground of rejection has

remained same, that is, she being a married daughter could not have been considered for appointment on compassionate ground, due to death of her father, neither in terms of G.O. No. 897-Edu(S) dated 12.10.1992 nor in terms of G.O. No. 251 – Emp dated 03.12.2013.

3. Mr. Ekramul Bari, learned counsel for the petitioner has pointed out to a previous order of this Court dated February 14, 2018 passed in W.P. No. 1339 (W) of 2018, by dint of which the Court has set aside the earlier order of rejection of the petitioner's prayer as above, dated September 20, 2017.

4. The petitioner's grievance is that while considering for the second time, the said respondent has relied on the similar ground again, of the petitioner being a married daughter of the deceased person.

5. Mr. Bari, for the petitioner would rely on a previous judgment of this Court dated April 30, 2024 in WPA No. 29126 of 2017, in which upon similar facts and circumstances, the Court has passed direction upon the respondent authorities for granting appointment to the petitioner on compassionate ground, thereby setting aside the reasons cited by the respondent that the petitioner was a married daughter of the deceased person.

6. Mr. Bari, also informs that the order of the Court as above, when challenged before the Hon'ble Division Bench in an appeal, the Division Bench has affirmed the said order of the Court. The law is now well-settled, as to what would be the rights of the married daughter of a deceased government employee, pursuant to the Full Bench decision of this Court, in the case of **State of West Bengal & Ors. vs. Purnima Das** reported in **2017 (4) CHN 362**. The Court has held therein that, the marriage of the daughter of a deceased employee cannot be sustained as a valid ground to discriminate her in case of compassionate appointment, so far as the daughter is

found to be dependent on the deceased employee. Mr. Bari argues that following the settled law in this regard, as stated above, the present writ petition, may be allowed, with direction upon the respondents to grant compassionate appointment to the petitioner.

7. Mr. Pinaki Dhole, learned counsel for the State has argued taking clue from the finding of the Full Bench in the said judgment that regarding this petitioner, the dependency factor is yet to be ascertained by the authority, hence, prayer of the petitioner cannot be allowed..

8. Mr. Dhole, for the State has submitted that the fact finding authority should be given opportunity to ascertain whether the petitioner is eligible in terms of the prevalent scheme or not for grant of appointment on compassionate ground.

9. Mr. Bari, in reply has vehemently opposed to the submissions made on behalf of the State respondent, for the reasons, the respondents at the first instance, have not taken any such ground for rejection of the petitioner's prayer, excepting that of her being a married daughter. Mr. Bari has stated that neither the petitioner can improve its case now, by taking up additional points of argument nor can maintain its initial reasons any more, the same not being tenable in the eye of law.

10. Heard submissions, perused the records and the judgment referred to on behalf of the petitioner. It appears that the impugned order has contemplated the unitary reason to reject the petitioner's prayer as above, that being a married daughter she will not be entitled for grant of compassionate appointment, in terms of G.O. No. 251-Emp. Dated 03.12.2013..

11. As discussed earlier, this point has been elaborately dealt with by the Hon'ble Full Bench in the judgment of *Purnima Das (Supra)*, which has been subsequently relied on by this Court in the judgment of *Mousumi Banerjee (Supra)*. So far as the

point of ineligibility of the petitioner for the reason of her being a married daughter of a deceased person, the same not be tenable in the eye of law. The Court has held that to be gross discrimination against the married daughter and contrary to the constitutional principles of equality. Thus the Court has held that a married daughter cannot be discriminated from being appointed on compassionate ground upon death of her predecessor/governant servant, provided she has been his or her dependent. The same being the sole ground in the impugned decision of the District Inspector of Schools, Secondary Education, South 24 Parganas, that is, order dated July 27, 2018, for rejection of the petitioner's prayer, the said order is de hors the law settled as above and should be set aside.

12. Hence, this writ petition is allowed, with the following directions:-

(i). The impugned order dated July 27, 2018 is set aside.

(ii). Let this matter be relegated to the District Inspector of Schools, Secondary Education, South 24 Parganas for immediate and appropriate consideration in accordance with law, the writ petitioner's prayer for compassionate appointment.

(iii). In doing so, the said respondent shall afford opportunity of hearing to the petitioner as well as consider all relevant documents and the schemes and come to a reasoned decision.

(iv). Needless is to mention that the said respondent if finds the petitioner to be eligible for appointment on compassionate ground, shall issue necessary order, within no time.

(v). The entire exercise as above should be positively concluded by the District Inspector of Schools, Secondary Education, South 24 Parganas within three weeks from the date of communication of copy of this order.

13. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.

14. With the above observations and directions, the writ petition being WPA 6494 of 2019 is disposed of, along with the pending applications, if any.

15. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)

D.Hira