

23.06.2025
SI No.30
Court No.8
(gc)

MAT 634 of 2019

**The State of West Bengal & Ors.
Vs.
Tamal Ahamed & Ors.**

Mr. Avishek Prasad

... for the Appellants.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.,

Mr. Kazi Sajjed Alam,

Mr. Raju Bhattacharyya

...for the Respondents/
Writ petitioners.

Soumen Sen, J. (Oral):

1. The appeal is arising out of an order passed by the learned Single Judge on 17th December, 2018 allowing an application for compassionate appointment relying upon a judgment of the Hon'ble Supreme Court in ***Govinda Prakash Verma Vs. L.I.C. & Ors.*** reported at ***(2005) 10 SCC 289 at paragraph 6.***
2. Mr. Avishek Prasad, learned Counsel appearing on behalf of the appellants has submitted that the said judgment has been held to be *per incuriam* in several subsequent decisions and is no more a good law and hence the decision of the learned Single Judge placing reliance on the said judgment is required to be set aside.
3. In the instant case, the Scheme does not provide that in assessing the eligibility criteria for the legal heirs of the deceased to be considered for compassionate appointment,

no such embargo is stated in the Scheme, however, the Scheme provides for an extreme economic hardship to be considered. The phrase 'Extreme Economic Hardship' was clarified by the Notification of the Department of School Education, Budget Branch of Government of West Bengal in Circular No.12-SE(B), 4A-18/1999 dated 18th January, 1999. It clarifies the said phrase to mean "the family of the deceased teacher, due to sudden expiry of the teacher is put in such financial stress that it fails to provide two square meals and other essentials to the surviving members of the deceased teacher's family".

4. The bread earner died on 28.01.2004 and the application for compassionate appointment was made on 19th May, 2004. It reveals from record that at the relevant time, the wife and the son are only two dependent members and the daughters were not included in the family as they got married by that time. It appears that the family was receiving a sum of Rs.8203/- as family pension soon after the death of the bread earner. The Commissioner of School Education has considered that for a family of two, it is sufficient for two square meals and other essentials and in arriving at the said conclusion, he has taken into

consideration the subsequent notification, 2009 where if the current rules are applied that the total family income would be reduced by 10% that is at Rs.4922/- only and such family income would exceed the initial gross salary of the State Government Group-D employee which would have disintitiled the family members of the deceased had it occurred in 2009. The authority appears to have taken a rationale view of the matter and the findings cannot be said to be perverse.

5. On such consideration, we set aside the order passed by the learned Single Judge.
6. Accordingly, the appeal is allowed and disposed of.
7. However, there shall be no order as to costs.
8. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)