

W.P.S.T. 79 of 2024

Saraswati Naskar
Vs.
The State of West Bengal & Ors.

Mr. Subrata Bhattacharya,
Ms. Rusha Mukherjee

...for the Petitioner

Ms. Ashmita Chakraborty

...for the State

1. Heard the learned counsel for the writ petitioner and the learned counsel representing the State respondents.
2. The petitioner's husband died on 06.05.2021. The wife has approached the authorities for grant of benefit of a special compassionate appointment under the Special Compassionate Appointment Scheme, 2020 contained in Notification No. 2413-F(P₂). The petitioner's claim has been rejected by the Government under a communication dated 13.12.2023 on the ground that he is not treated as a Covid Warrior or a frontline worker since his services were not utilised in respect of such duties. The rejection of his claim was put to challenge before the West Bengal Administrative Tribunal ('S.A.T.' for short) in O.A. No. 62 of 2023.
3. The S.A.T. by its order dated 09.01.2024 has accepted the stand of the State and found that there was no infirmity in the rejection of

petitioner's claim for special compassionate appointment since her husband was not a frontline worker during the Covid-19 pandemic. The order of the S.A.T. dated 09.01.2024 has been assailed in the present writ proceedings.

4. The learned counsel for the writ petitioner has drawn attention of the Court towards the Special Compassionate Appointment Scheme, 2020. He submits that applicability of the Scheme is specified in the Notification dated 12.08.2020 and the same includes at Clause 2A : "*Employees of State Government, Rural & Urban Local Bodies, Public Undertakings, Statutory Bodies or any Grant-in-Aid institution.*" There is no dispute that the petitioner's husband was a permanent employee of the State Government and therefore, there was no scope for the authorities to raise the issue based on which the claim has been rejected.
5. He further submits that the Notification is not exhaustive when it deals with application of the Scheme. The opening paragraph of the Notification includes "other support staff". The petitioner was working as another support staff and he was a permanent employee. He has left behind minor children and a wife and therefore, the authorities ought to have extended the benefit

of special compassionate appointment to the petitioner.

6. The learned counsel for the petitioner further placed reliance on a decision of the Orissa High Court, copy of the same has been handed over to us. The Judgement is dated 06.12.2024 delivered by an Hon'ble Single Judge in the case of ***Bharati Satpathy Vs. State of Odisha & Ors. in W.P.(C) No. 23242 of 2024***. He submits that in that case also the High Court has considered a similar argument and the High Court was of the view that though he may not be discharging duty in the field; but the petitioner therein was still granted the benefit of compassionate appointment under the Special Scheme for Covid-19 affected Government employees who had been drafted for such work. Specific reliance is placed on paragraph 7 of the Judgement.
7. The learned State counsel on the other hand has submitted that the benefit of special compassionate appointment is available only to such persons who are working day and night risking their life to provide urgent medical treatment. It is in that context that the Notification contemplates "*other support services to the affected population*". By reading 3 words ("*other support services*") in isolation, the meaning

of the Notification cannot be enlarged so as to make it applicable to all employees working during the Covid-19 period, irrespective of the nature of duty discharged.

8. The learned counsel for the State has submitted that the decision relied upon by the petitioner's learned counsel is factually different and distinguishable from the facts of the present case. She further submits that the Judgement being a Judgement of a Single Judge's Bench of another High Court, would have no binding precedent on the Division Bench of this Court, moreso when the same is dealing with distinguishable facts under a different scheme.
9. We have considered the rival submissions.
10. A plain reading of the Notification dated 12.08.2020 reveals that the decision to come out with a scheme for special compassionate appointment was taken since the State machinery had been mobilised to combat the situation arising out of the Covid-19 pandemic. The scheme takes into consideration the fact that a large number of "Covid Warriors" comprising permanent employees and contractual/ casual/ hired worker/ volunteers of the State Government, and Urban & Rural Local Bodies, Public Undertaking and others Statutory Bodies under

the State Government were risking their lives day and night to provide “*urgent medical treatment and other support services to the affected population and to enforce restrictions to ensure the containment of the pandemic*”. The scheme clearly contemplates that it is applicable to “*frontline workers*” who have themselves been affected by the infection and unfortunately succumb to such infection. The fact that the category of employees has later been specified while dealing with application of the scheme in paragraph 2A (extracted above) does not in any way enlarge its applicability.

11. The expansive meaning sought to be canvassed by the learned counsel for the petitioner is clearly not contemplated in the Special Compassionate Appointment Scheme. Had the Government any intention of extending the benefit of special compassionate appointment to all and sundry, it would have stated so, in so many words. From a plain reading, the Scheme, however, is clear in its intent as taken note of above.
12. The two fold submissions on behalf of the petitioner, therefore, is not acceptable for the reason that it is not in dispute that the petitioner’s husband was working as a stenographer in the office. It is nobody’s case that

his services were requisitioned for providing any urgent medical treatment or other support services to an affected population, or that he was required to enforce restrictions to ensure containment of the pandemic. The Notification dated 12.08.2020 clearly contemplates such work being performed, for applicability of the Notification dated 12.08.2020. The authorities have, therefore, rightly not considered the petitioner's claim for special compassionate appointment.

13. The petitioner, however, may be entitled to compassionate appointment under the general scheme which is not in issue. We therefore, do not wish to make any observation in respect of such claim.
14. Insofar as the decision of the Orissa High Court relied upon, we agree with the submission of the learned State counsel that the decision of an Hon'ble Single Judge of another High Court has no binding precedent over this Court. However, we have gone through the same.
15. We find that the scheme under which the benefit was claimed before Orissa High Court is a different scheme. The High Court has further taken into consideration the nature of work being performed by the petitioner therein as has been

taken note of in paragraph 6 of the Judgement. It was recorded that “*he was always exposed to infection as most of the Covid-19 related deployment is done from the office where he was working and that the duty was a Covid-19 management related duty.*” The facts of the case arising for consideration before the Orissa High Court were essentially different.

16. Therefore, the order of the authorities contained in letter dated 13.12.2023 rejecting the petitioner’s claim for special compassionate appointment and its affirmation by the S.A.T. under its order dated 09.01.2024 passed in O.A. No. 62 of 2023, in our considered opinion does not require any interference.
17. The Writ Petition being **W.P.S.T. 79 of 2024** is dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)