

03.11.2025
Court No.11
Item No.08
Avijit Mitra
ML

FMA 810 of 2019

**Mustafa Kamal
- versus -
State of West Bengal & ors.**

Mr. Goutam Misra,
Mr. Vaskar Pal
...for the appellant
Mr. Vaskar Prasad Vaisya, A.G.P.,
Mr. Gourav Das
...for the State respondents

The present appeal has been preferred challenging an order dated 22nd April, 2019 passed by the learned single Judge in the writ petition being WP 14614 (W) of 2018. The said writ petition was preferred assailing an order dated 27th December, 2017 passed by the Chairman of the District Primary School Council, Uttar Dinajpur (hereinafter referred to as the said DPSC).

Mr. Misra, learned advocate appearing for the appellant submits that the father of the appellant, who was a teacher in a primary school, died-in-harness on 8th September, 1997. The widow of the appellant was a *pardanashin* woman and she submitted a representation for compassionate appointment of her son, being the appellant herein and the same was sent by the registered post on 21st May, 1999. The said document towards service was, however, not taken into consideration. As the

said representation was filed within a period of two years from the date of death of the deceased teacher, the respondents were under an obligation to consider the same.

He submits that as the respondents did not consider the initial representation, further representations were submitted on 30th July, 2010 and on 6th June, 2017 but in vain. In the midst thereof, the appellant attained majority. Such non-consideration of the representations ought to have been construed by the learned single Judge as a continuous wrong. The appellant's prayer was refused erroneously treating the last representation submitted by the appellant to be a belated application. The financial status of the appellant was also not considered while issuing the impugned order dated 27th December, 2017. The said issues, as urged, were glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court.

Mr. Das, learned advocate appearing for the State respondents, however, denies and disputes the contention of Mr. Misra and submits that admittedly the appellant could not produce the original representation, which was allegedly submitted by his mother on 21st May, 1999. When such issue was urged in the first round of the litigation, the learned single Judge directed consideration of the subsequent representation dated 6th June, 2017 submitted by the appellant's mother.

He argues that at the time the first representation was allegedly submitted, the appellant was a minor and as such the authorities were under no obligation to consider the same. In the said conspectus, learned single Judge rightly dismissed the writ petition and no interference is called for. Reliance has been placed reliance upon a larger Bench decision of this Court delivered in the case of *Piyali Saha Vs. State of West Bengal & ors.* reported in 2013 (1) CHN (Cal) 18.

The fact that the appellant was a minor at the time of death of his father and also at the time the first representation was allegedly submitted, is not disputed. The prevalent scheme did not provide that as and when the minor becomes major, he can be appointed without any time consciousness or limit.

The object of compassionate appointment is to provide succour to the dependent members of the deceased and to mitigate the financial hardships faced by them for the untimely death of their bread earner. It is also well-settled that compassionate appointment cannot be claimed as a matter of right. The appellant was not competent to be considered for compassionate appointment on the date of death of his father. He also did not attain majority at the time the first representation was allegedly submitted on 21st May, 1999. In the said conspectus, the learned Judge refused to exercise discretion in favour of the appellant and we do not find

any infirmity in the said order warranting interference in the present appeal.

Accordingly, the appeal being FMA 810 of 2019 along with connected application, if any, is dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)