

10.11.2025
(D/L-04)
Ct. No.4
(B.K.N.)

W.P.S.T. 126 of 2024
Pallabi Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Sattwik Bhattacharyya,
Mr. Aashutosh Bhattacharyya,
Mr. Rohit Basak

...for the Petitioner

Mr. Tapan Kr. Mukherjee, Ld. AGP,
Ms. Ashmita Chakraborty

...for the State

1. The writ petitioner was the applicant before the West Bengal Administrative Tribunal (Tribunal for short). Being daughter of a Government servant who died in harness, she claimed compassionate appointment. O.A. No. 96 of 2023 filed by the writ petitioner was dismissed by an order dated 25.04.2024, which is put to challenge in the present writ petition.
2. Heard learned advocate for the parties.
3. The writ petitioner was a minor aged about 13 years old at the time of death of her mother who died in harness while serving as a A.N.M. Her date of death is 11.05.2003. The petitioner's date of birth is 14.05.1990. Her father made an application for considering the petitioner for appointment on compassionate grounds. The application was made on 29.09.2003, within five months from the expiry of the petitioner's mother.

4. The petitioner attained majority on 14.05.2008. Thereafter, the petitioner made an application for appointment on compassionate grounds on a plain paper on 19.08.2008, i.e, after a lapse of five years from the date of demise of her mother. This application was not made on the prescribed proforma. The petitioner's claim has been rejected as being not maintainable for two reasons:
 - (i) that it was not made on the prescribed proforma and
 - (ii) that it was a belated application.
5. The learned advocate for the writ petitioner submits that the application was considered by the three member enquiry committee appointed under the policy of compassionate appointment to consider the eligibility of the petitioner having regard to the financial status. Report/s was submitted in favour of the petitioner.
6. The petitioner's learned advocate placed reliance on 26-Emp dated 01.03.2016 to submit that the time limit specified earlier has been enlarged by this notification which says an application for compassionate appointment can be submitted, upto five years from the date of death of the Government servant.
7. The learned AGP on the other hand submits that the petitioner's application has been rejected several

times. The last reasoned order passed in compliance of the Tribunal's orders passed on petitioner's earlier O.A. No. 383 of 2022 clearly specifies the reasons for not entertaining the petitioner's application after duly considering the provisions contained in 26-Emp.

8. We find that 26-Emp provides a scope for considering an application for compassionate appointment up to five years from the date of death of the Government servant, but in exceptional circumstances. Two illustrative exceptional circumstances have been specified in 26-Emp. The first one is in case an employee died in action. A second illustration given in 26-Emp is a circumstance where none other than the person who has made the application is eligible for employment.
9. In the present case the petitioner's father was eligible for employment but he instead of claiming the compassionate appointment upon demise of his wife in the year 2003 submitted an application for the present petitioner who was a minor aged about 13 years at the time of demise of the deceased for consideration of compassionate appointment and seeks to enforce such claim upon her attaining majority five years thereafter.
10. We are unable to accept such claim of the petitioner. The law in this regard is by now is well settled. The

concept of compassionate appointment is to grant immediate relief to a family left in destitute due to sudden loss of the bread earner. The policy is an exception to the general rule of equality and, therefore, the law is well settled that any claim can be entertained only and strictly in compliance with the terms and conditions contained in the policy for furtherance of the objectives stated in the policy. The concept of compassionate appointment cannot be abused by making the same a source of recruitment. The object which is by now settled is for providing succour to the family left in destitute by sudden loss of the bread earner. Recently, the Apex Court has stated in the case of State of **West Bengal –Vs.- Debabrata Tiwari & Ors.** reported in **(2025) 5 SCC 712** that compassionate appointment is not a vested right which can be exercised at any time in future and after the crisis is over.

11. The learned advocate for the writ petitioner has relied upon a decision of this Court rendered by a Single Judge in the case of **Purnam Pradhan –Vs.- State of West Bengal [W.P. No. 19968(W) of 2006]**. The same is reported in **2012 (2) CHN 423**. This judgment being of a Single Judge is not binding on this Court. However, we have considered the same and found that the Single Judge of this Court considering the said case found that it was “a case of

very peculiar nature”, wherein the mother of the petitioner was killed by her husband and the accused father was sentenced to rigorous life imprisonment. The petitioner was minor about eight years at the relevant time. He had no family and under the extreme hardship arising from the case. Considering the facts of the said case, which are at stark variance with the present case, decision was passed by the learned Single Judge.

12. We have taken note of the fact that in the present case, no exceptional circumstances was made out before the authorities for invoking the time frame, of up to five years in 26-Emp. The petitioner cannot derive any sustenance from the judgment of the learned Single Judge also.
13. We find no reason to interfere with the decision of the Tribunal dated 25.04.2024 passed in O.A. No. 96 of 2023.
14. The writ petition is dismissed.
15. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)