

08.07.2025.
15
Ct.No.7.
as

WPA 16134 of 2024

Sanjay Kundu
Vs.
Union of India & Ors.

Mr. Bidyut Kr. Halder,
Mr. Indranil Halder.
...for the Petitioner.

Mr. Souvik Nandy, Ld. Sr. Adv.,
Mr. Arijit Majumdar.
...for the UOI.

1. The origin of the dispute involved in the present writ petition can be traced to a disagreement within the family of a deceased employee concerning compassionate appointment. The dispute was further aggravated when the petitioner failed to obtain a 'No Objection Certificate' from his elder brother, one of the other legal heirs of the deceased employee.

2. Briefly stated, the essential facts that need to be outlined for the effective adjudication of the present writ petition are that the petitioner's father, Panchanon Kundu (since deceased), was employed at the Ordnance Gun & Shell Factory, Cossipore, and died in harness on 22nd June, 2018. He was survived by two sons, namely, the petitioner and private respondent No. 4. Following the demise of his father, the petitioner submitted a representation before the competent authority seeking employment assistance on

compassionate grounds, asserting that the family had been plunged into destitution due to the loss of its sole breadwinner. Accordingly, the petitioner requested that compassionate appointment be granted in his favour to help the family overcome the resulting financial hardship.

3. However, despite receipt of the said representation, no effective steps were taken by the concerned respondents. This inaction prompted the petitioner to file a writ petition, being WPA 18897 of 2022, which was disposed of by a Coordinate Bench of this Court by an order dated 24th November, 2022. By the said order, the Bench directed the Senior General Manager, Ordnance Gun & Shell Factory, Cossipore, to consider the petitioner's representation and dispose of the same by passing a reasoned order within the time specified therein.

4. Aggrieved by the order dated 24th November, 2022, the respondents preferred an intra-court appeal, being MAT 137 of 2023, which was disposed of by an order dated 12th March, 2024. Taking note of the fact that the order dated 24th November, 2022, passed in WPA 18897 of 2022, merely directed the competent authority to consider the petitioner's application without issuing any positive direction, and left the matter to the discretion of the concerned authorities, the Hon'ble Division Bench declined to interfere with the order under appeal. However, the authorities were directed to take into consideration the decisions referred to in the order dated 12th March, 2024, which held that the policy prevailing at the time of the employee's death is required to be applied.

5. Pursuant to that order dated 12.03.2024, a reasoned order dated 22nd May, 2024 was passed by the concerned respondent. The order dated 22.05.2024 recorded that, the elder brother of the petitioner, the private respondent no. 4 had also claimed his compassionate appointment for the family left behind by the deceased. However, neither the petitioner nor his elder brother was able to submit a 'No Objection Certificate' (NOC) obtained from the other. In view of this, the order directed the petitioner to submit a single application for compassionate appointment along with an NOC from the other family members of the deceased employee. The petitioner has assailed the order dated 22nd May, 2024 in the present writ petition.

6. Mr. Halder, learned Advocate representing the petitioner, submits that in the present writ petition, the private respondent being another legal heir of the deceased employee has been impleaded as a party respondent. He submits that a copy of the writ petition has been duly served upon the private respondent, and on several occasions, notices were sent to ensure his presence at the time of hearing of this writ petition.

7. However, he submits that despite receipt of the notices, the private respondent has chosen not to appear in the matter. He contends that such conduct on the part of the private respondent clearly indicates a lack of interest in seeking any employment assistance on compassionate grounds following the death of the employee. Accordingly, he prays that the respondents be directed to dispense with the requirement of submitting a 'No Objection Certificate'

from the private respondent and to grant compassionate appointment in favour of the petitioner.

8. Mr. Nandy, learned Senior Advocate appearing for the Union of India, vehemently opposes the contentions advanced by Mr. Halder. He submits that the authority cannot be directed to disregard the mandatory requirements prescribed under the applicable Rules governing compassionate appointments. He further argues that no cause of action has arisen in favour of the petitioner to maintain the present writ petition. He submits that the order under challenge does not reject the petitioner's claim for compassionate appointment; rather, it merely directs the petitioner to produce a 'No Objection Certificate' from the other family members. He contends that the petitioner should resolve this matter within the family, and upon producing the required 'No Objection Certificate', his claim for compassionate appointment shall be considered in accordance with law.

9. Heard the learned Advocates appearing for the respective parties and perused the materials on record.

10. Admittedly, under the Rules applicable in the department concerning the grant of compassionate appointment, an applicant is required to submit an application in the prescribed form. The prescribed form has attained the status of an integral part of the statute, i.e., the Rules governing compassionate appointment. The prescribed form requires an applicant to submit a 'No Objection Certificate' from the other members of the family. Therefore, it constitutes a mandatory statutory requirement

that must be complied with by any applicant seeking compassionate appointment following the death of an employee of the respondent. A Court of law cannot direct the authority to act in contravention of the applicable Rules.

11. Thus, it would not be appropriate to direct any authority to ignore a mandatory requirement that must be fulfilled by an applicant seeking compassionate appointment.

12. Therefore, based on the discussions made in the preceding paragraphs, I do not find any infirmity or perversity in the order under challenge in this writ petition. Mr. Nandy has rightly pointed out that the order does not reject the petitioner's claim for compassionate appointment; rather, it merely requires the petitioner to submit a 'No Objection Certificate' from the family members of the deceased employee.

13. The petitioner is at liberty to resolve the issue within the family and to produce the 'No Objection Certificate' before the appropriate authority. It is clarified that, if such 'No Objection Certificate' is submitted by the petitioner, his claim for compassionate appointment shall be considered in accordance with law within a period of eight weeks from the date of submission of the said certificate.

14. With this observation and order, the writ petition is disposed of.

15. There will be no order as to costs.

(Partha Sarathi Chatterjee, J.)

