

Form J(2)  
Sl.No.7  
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**In the High Court at Calcutta**  
**Constitutional Writ Jurisdiction**  
**Appellate Side**

*Present:*

**The Hon'ble Justice Aniruddha Roy**

**WPA 16870 OF 2024**

Sri Samrat Das

Vs.

The State of West Bengal & Ors.

*For the petitioner* : Mr. Balai Lal Sahoo, Adv.  
Mr. Amalaksha Jana, Adv.  
Ms. Barnali Jana, Adv.

*For the Respondent*  
*Nos. 2 & 3* : Ms. Deblina Chattaraj, Adv. (VC)  
Ms. Poulami Chattopadhyay, Adv.

*Heard on* : September 22, 2025

*Judgment on* : September 22, 2025

**Aniruddha Roy, J. :**

1. Mr. Balai Lal Sahoo, learned Advocate appears for the petitioner.
2. Ms. Poulami Chattopadhyay, learned Advocate appearing physically led by Ms. Deblina Chattaraj, learned Advocate appears virtually for the respondent nos.2 and 3 files a report, the same is taken on record.

Copy has been served upon Mr. Sahoo, learned Advocate for the Petitioner today in Court.

3. None appears for the respondents/State.

**Facts :**

4. The father of the petitioner was an employee of the Calcutta Tramways Company (CTC). The father died on **April 16, 2011**. Upon the death of the father of the petitioner, who died-in-harness, his mother was advised to make an application in the prescribed format for compassionate appointment.
5. The application on a plain paper was submitted on **December 7, 2012 at page 21** to the writ petition. The application on prescribed format was submitted on **October 21, 2014**. Still the petitioner did not receive compassionate appointment.
6. At this stage, the petitioner filed the first writ petition, **WPA 19372 of 2022** (first writ petition). The coordinate Bench by its Judgment and Order dated **February 28, 2023** at **page 96** to the writ petition has allowed the said writ petition with the following direction :

*“This Court is of the view that in the present case the vested right of the petitioner to be considered for appointment on compassionate ground crystalized on the date of death of the deceased employee as per the applicable Scheme. The said right could have been defeated had the employer not waived its right of rejection of the application for not being made within the stipulated time. Here, the employer chose to waive its right of rejection and invite application in proper format in October 2014 after the Labour Department’s Notification dated December 3, 2013. Therefore, the*

*decision in N.C. Santosh (supra) does not come to the aid of the State respondents for frustrating/rejecting the prayer of the petitioner.*

*In the light of the discussions above, this Court directs the application for compassionate appointment to be considered by the authorities concerned within three months from the date of the order in the light of the Apex Court's judgment in (2022) 2 SCC 157 (State of Madhya Pradesh & Ors. Vs. Ashish Awasthi) and keeping in mind the 2011 Policy.*

*The petitioner will be given a personal hearing and a reasoned order shall be passed and communicated to the petitioner within two weeks of passing thereof.*

*With the directions aforesaid, W.P.A. 19372 of 2022 is disposed of."*

7. No appeal has been preferred from the said order of the coordinate Bench dated **February 28, 2023**.
8. Pursuant to and in terms of the said order of the coordinate Bench the respondent no.2 has considered the case of the petitioner and passed its reasoned order dated **May 29, 2023** at **page 105** to the writ petition. In the said reasoned order, the respondent no.2 held that, no fresh employment in the Corporation was possible and, accordingly, the claim of the petitioner was **rejected**.
9. The second writ petition, **WPA 18883 of 2023** was filed by the writ petitioner being aggrieved by the said reasoned order dated **May 29, 2023**. The coordinate Bench by its order dated **November 16, 2023** disposed of the said second writ petition with the following direction :

*"3.In view of the fair and candid admission of the counsel for the respondents, this Court is of the view that the said order dated 29<sup>th</sup> May, 2023, is liable to be quashed and set aside.*

*4. The respondents may take a suitable decision on the petitioner's appointment on compassionate ground within a period of one month from date mandatorily and positively and a reasoned order may be passed and communicated to the writ petitioner.*

*5. With the aforesaid directions, the writ petition is disposed of."*

10. No appeal has been preferred from the said order dated **November 16, 2023** neither compassionate appointment has been granted to the petitioner.

11. After disposal of the second writ petition by the coordinate Bench, the respondent no.2 has taken a decision on **November 29, 2023 at page 113** to the writ petition, which is quoted below :

*"Now, in compliance with the order of the Hon'ble High Court, Calcutta in WPA No. 18883 of 2023 the petitioner, Shri Samrat Das may be appointed on Compassionate ground in terms of clause 11 of the notification being No.144-WT/1E (D) - 1/2008 dated 13.01.2011 after due approval from the department."*

12. These facts, stated above, would clearly show that, the Corporation is agreeable to provide appointment to the petitioner after due approval from the State. Since no further step has taken by the State authority, the instant third round of writ litigation has been initiated.

### **Submissions :**

13. Mr. Dipanjan Datta, learned Senior Government Advocate appearing for the State on the last occasion on **September 18, 2025** has concluded his submissions. He has relied upon **two** State notifications. The **first** one is of **December 3, 2013 at page 60** to the writ petition

and the ***second*** one was made over to this Court in course of the hearing dated ***January 24, 2025***. On the strength of the said ***two*** notifications learned Senior Government Advocate submitted that, the first notification dated ***December 3, 2013*** was issued in supersession of all previous orders in respect of appointment on compassionate ground. Thus, according to the learned Senior Government Advocate this 2013 Notification has ***superseded*** the previous Notification dated ***January 13, 2011*** at ***page 55*** to the writ petition which earlier permitted compassionate appointment in the said Corporation and the petitioner applied thereunder.

14. Learned Senior Government Advocate then referring to the said second Notification dated ***January 24, 2025*** submitted that there is no further scheme for appointment on compassionate ground exists insofar as the said Corporation is concerned and, therefore, no approval can be given by the State for granting compassionate appointment in favor of the petitioner.

**Decision :**

15. After considering the rival contentions of the parties and upon perusal of the materials on record, it appears to this Court that, the right of the petitioner stands crystalised by the orders of the coordinate Benches up to the stage as would be evident from the stand taken by the respondent no.2 from its said communication dated ***November 29, 2023*** at ***page 113*** to the writ petition.

16. The petitioner now has been stuck at the stage of receiving approval from the State authority.
17. On a careful scrutiny of all the said three notifications, as referred to above, this Court finds that, the notification dated ***January 13, 2011*** at ***page 55*** to the writ petition was applicable for the Corporation as the name of the Corporation has been mentioned therein.
18. The notification dated ***December 3, 2013 at page 60*** to the writ petition applies to dependent family members of a ***Government Employee***. The next notification dated ***January 24, 2025*** was issued on the basis of the said 2013 notification and the earlier departmental order/notification dated ***January 15, 2011***, was treated a null and void. Therefore, the basis of the said 3<sup>rd</sup> Notification dated ***January 24, 2025***, was the notification dated December 3, 2013, which was only applicable for Government Employee and not for the employee of the Corporation concerned.
19. Inasmuch as, both the coordinate Benches passed their respective orders on ***February 28, 2023*** and ***November 16, 2023*** which were much subsequent to the said notification of 2013 and no appeal was carried out from either of the said two orders and the Corporation has accepted and acted upon those orders by issuing the said communication dated ***November 29, 2013 at page 113*** to the writ petition.

20. Inasmuch as, the father of the petitioner was an employee of the Corporation concerned and was not an employee of the State Government. The Corporation concerned is an independent and separate juristic entity from that of the State Government. Therefore, the father of the petitioner cannot be termed and construed to be an employee of the State Government. Had the father of the petitioner been an employee of the State Government then the said notification dated ***December 3, 2013*** would have applied.

21. In view of the above, this Court is of the considered and firm view that the said notification dated ***December 3, 2013***, would not and shall not apply in respect of the father of the petitioner. Since, the notification dated ***January 13, 2011*** was and still is applicable for the Corporation concerned, this Court holds that, the said subsequent notification dated ***December 3, 2013*** has not superseded the said 2011 notification relating to compassionate appointment in case of the Corporation concerned. Consequently, this Court further holds that, the said 3<sup>rd</sup> notification dated ***January 24, 2025***, which was issued on the basis of the said notification dated ***December 3, 2013*** is also not at all relevant and would have no effect on the said first notification dated ***January 13, 2011***.

22. The policy for compassionate appointment is a benevolent and welfare policy. Such a policy has to be read, understood and construed in a manner as liberal as possible but of course within the

four corners of the said policy. Such benevolent policy has to be read liberally in favour of the beneficiary thereunder, provided the beneficiary qualifies the terms and conditions under the policy. Similarly, a prohibitory policy/decision of the State which prohibits the application of such a benevolent welfare policy must be and should be read, construed, understood and interpreted on its strict construction. 2013 notification since was restricted to the Government Employee only, the same should be construed strictly in its letter and spirit and should not be applicable for the employee of the said Corporation concerned.

23. In view of the foregoing reasons and discussions, the appropriate and jurisdictional authority of the State and/or Transport Secretary is directed to issue an immediate approval for compassionate appointment of the petitioner in terms of the recommendation made by the respondent no.2 dated **November 29, 2023** positively within a period of **six weeks** from the date of communication of this order.

24. Immediately after the approval shall be issued by the State Authority, the respondent No.2 is directed to take all necessary and consequential steps to give compassionate appointment to the petitioner and the petitioner shall immediately be appointed in accordance with law upon compliance of all necessary formalities by the respondent No.2 and/or appropriate authority but positively

within a period of ***two weeks*** from the date of receiving the approval of the State Authority.

25. With the above observations and directions, this writ petition, ***WPA 16870 of 2024*** stands ***allowed***, without any order as to costs.
26. The parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Aniruddha Roy, J.)**