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17.03.2025
Court No. 25
D.Hira

WPA 15209 of 2019

Prabir Halder

Vs.

The State of West Bengal & Ors.

Mr. Dilip Kumar Saha,

Ms. Dhriti Das.

... for the petitioner

1. The petitioner is the son of the deceased Assistant Teacher, who has died-in-harness on November 10, 2010. After death of the father the petitioner has submitted his application for grant of compassionate appointment before the Chairman, District Primary School Council, South 24 parganas, which was received by the same on August 20, 2012.
2. Since thereafter, no steps have been taken pursuant to the prayer of the petitioner as above and ultimately an order was passed by the Commissioner of School Education, West Bengal on January 29, 2018, thereby considering the representation of the petitioner and also the proposal of the Chairman, District Primary School Council, South 24 parganas for grant of compassionate appointment to the petitioner. The petitioner's prayer was rejected on the finding that no benefit can be granted to the petitioner for non-submission of relevant papers/documents on behalf of the petitioner as well as the District Primary School Council, South 24 parganas, vide an order dated January 29, 2018.

- 3.** The said order dated January 29, 2018 of the Commissioner of School Education, West Bengal is under challenge in the present case.
- 4.** In spite of service of notice, none appears for the State respondent. Hence, the Court finds it proper to take up the matter for final adjudication in absence of the said respondent.
- 5.** Mr. Saha, learned counsel for the petitioner has contended that the petitioner being an eligible person in all respect to be appointed in died-in-harness category on compassionate ground in place of his deceased father, has been unreasonably and illegally deprived of such opportunity.
- 6.** He says that the ground cited by the Commissioner of School Education, West Bengal in the impugned order dated January 29, 2018 is not sufficient to reject the petitioner's prayer. He having complied with all the necessary criteria and having been a dependent of the deceased person and in requirement of the source of sustenance after death of his father, would be eligible for appointment on compassionate ground, in place of his deceased father.
- 7.** Thus, according to Mr. Saha, the impugned order is liable to be set aside. He seeks appropriate relief before the Court in the present case.
- 8.** On careful perusal of the impugned order dated January 29, 2018, the Court finds that the Commissioner of School Education, West Bengal has cited the reason that since no one has applied for the pension before the authorities after death of the said

Assistant Teacher/father of the petitioner, the department has not yet issued the Pension Payment Order of the said dead person. In absence of the Pension Payment Order, the Commissioner of School Education, West Bengal has expressed inability for ascertainment of the 'financial hardship' of the applicant/petitioner in terms of the existing rules vide notification dated June 26, 2009.

- 9.** Therefore, the authority has stated that in terms of that existing rule, the petitioner would not be entitled for grant of any appointment on died-in-harness category on compassionate ground.
- 10.** Later, in this case, the Director of Provident Fund and Group Insurance, Government of West Bengal has been made a party respondent in this case.
- 11.** It is a fact that there is no material available before the Court to suggest that any of the legal heirs of the deceased person as above has prayed before the authority for grant of death benefits or pension, after death of the said person.
- 12.** However, the petitioner being the major and eligible son of the said deceased person who died-in-harness would be eligible under the law to seek for grant of compassionate appointment, subject to fulfilment of other relevant criteria as prescribed under the rule.
- 13.** In that event, for the said limited purpose, the respondent authorities are to assess the 'financial hardship' of the petitioner in terms of the rule dated June 26, 2009. For that, it is necessary that the family income be ascertained.

- 14.** In such view of the facts and circumstances of the case, I find it proper to dispose of the present writ petition by directing the added respondent/Director of Provident Fund and Group Insurance, Government of West Bengal to consider issuance of Pension Payment Order of the Assistant Teacher/father of the present petitioner, subject to compliance with other rules and formalities or else the said respondent shall pass an order, ascertaining the last drawn salary of the said deceased person and other necessary information, in details. In case of absence of any Pension Payment Order, if it is so, let the respondent authority take into consideration the order passed by the said respondent, to ascertain the 'family income' and 'financial hardship' of the petitioner, in terms of the rules and in consideration of his prayer as above. Let a reasoned decision, as regards the prayer of the petitioner for grant of appointment on compassionate ground be taken afresh by the respondent Commissioner of School Education, after being presented with either the Pension Payment Order or order as directed above.
- 15.** Hence, the impugned order dated January 29, 2018, is set aside.
- 16.** The exercise as above shall be concluded by the said authority within a period of six weeks from the date of communication of copy of this order.
- 17.** Since no affidavit is invited, the allegations contained in the petition are deemed to have been

denied by the respondents including the private respondents.

18. With the above observations and directions, the writ petition being WPA 15209 of 2019 is disposed of, along with the pending applications, if any.

19. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)