

Form No. J(1) .

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present: The Hon'ble Justice Madhuresh Prasad
And
The Hon'ble Justice Supratim Bhattacharya

WPST No. 176 of 2025

Arya Sengupta
Versus
The State of West Bengal & Ors.

For the appellant: Mr. Uttam Kumar Ghosh.

For the respondent: Mr. Bibhawan Bhattacharyya.

Heard on : 21st April, 2023

Judgment on: : 28th August, 2025

Supratim Bhattacharya, J.

1. The present writ petition has been preferred by the applicant of the original application being O.A. No.724 of 2022.
2. Through the said original application, the petitioner has prayed for setting aside the order dated 17th December, 2021, passed by the Additional Director of Health Services (Personnel) & Ex-Officio Special Secretary, West Bengal, thereby rejecting the application for appointment of the petitioner/applicant on compassionate ground.
3. The factual matrix of the lis is that the mother of the present petitioner, namely, Rakhi Saha (Sengupta) expired on 15th April, 2000 leaving behind her husband namely Somnath Sengupta and son the present petitioner, namely Arya Sengupta, who was

then aged about 2 years 9 months. On the death of Rakhi Saha (Sengupta) the employee, her husband had filed an application seeking appointment of his son, that is the present petitioner, as to when the present petitioner would attain majority.

4. Thereafter, the petitioner on attaining majority, prayed for appointment on compassionate ground on 28th December, 2015. The said prayer seeking appointment on compassionate ground has been rejected which has given rise to the present lis.

5. The West Bengal Administrative Tribunal after considering submission of the learned advocates of the contending parties has been pleased to dispose of the said original application on 19th November, 2024 by passing the following order:-

“In this case, it is evident that these two conditions were not met-the death of the employee was not “in action” and the father of the applicant was eligible for such an employment. From the application, it also becomes clear that it was a planned application for the applicant to attain the age of 18 years and then apply. In para – IV of the application, the applicant himself had mentioned that he was under aged at the time of death of his mother. Such an application was preferred only after he attained the age of 18. It is relevant and pertinent to mention that the scheme for compassionate appointment is a need based concept and not a right to be claimed by members of the deceased family. Such an employment is to be provided as a minimum succor if the family is passing through serious financial and economic difficulties. In this case, the strong impression gained by this Tribunal is that the applicant considered such a compassionate employment as his legal right. Mere death of a government employee does not give any legitimacy for claiming such an employment. Further, the scheme is intended for a family member who fulfils all the eligibility criteria. In this case, however, the applicant being a minor at the time of death of his mother could not fulfil one of the main eligibility criterias.

Having observed above and not being satisfied with the contention of the applicant, this application is disposed of without passing any orders”.

6. Learned advocate representing the petitioner has submitted that the husband of the deceased employee being father of the petitioner at the time of expiry of the employee that is on 15th April, 2000 had sought for appointment of the petitioner after the petitioner attains majority. He has further submitted that the present petitioner after attaining majority has preferred the application seeking appointment on compassionate ground.

7. Learned advocate representing the respondent has submitted that the impugned order passed by the tribunal requires no interference and has prayed for dismissal of the writ petition.

8. On consideration of the submission of the learned advocates, it transpires that the moot point is whether the writ petitioner being the son of the employee since deceased, that is his mother, who has expired in the year 2000, is entitled to appointment on compassionate ground or not. From the submissions and the documents, it transpires that at the time of death of the employee that is the mother of the petitioner that is on 15th April, 2000, the petitioner was aged only about 2 years 9 months and at that relevant point of time, the husband though eligible had not sought for appointment instead he had prayed for appointment of his son after his son attains majority. The petitioner attained majority during the year 2015 after a lapse of more than 15 years.

9. In the above facts and circumstances and considering the relevant circulars for appointment on compassionate ground, it transpires that at the time of death of the employee her husband though being eligible had not preferred appointment instead he had sought for appointment of his son, who was then aged about 2 years 9 months and after a lapse of long 15 years, the petitioner after attaining majority has prayed for appointment. Such a long gap of more than 15 years seeking appointment cannot be condoned for giving appointment to the petitioner on compassionate ground.

10. On the concept of compassionate appointment there are series of judgments. Court has held that the intention of compassionate appointment is to enable the dependent family to tide over immediate financial crisis causing on the death of the bread earner of the family. In the present case, the husband of the deceased employee chose to wait for long 15 years. Such a demand is opposed to the concept of compassionate appointment.

11. In this context this court refers to the judgment of the Hon'ble Apex Court passed in the case between Umesh Kumar Nagpal Vs. State of Haryana & Ors, published in (1994) 4 SCC 138. Paragraph 6 of the said judgment lays as follows:-

“For these very reasons, the compassionate employment cannot be granted after a lapse of a reasonable period which must be specified in the rules. The consideration for such employment is not a vested right which can be exercised at any time in future. The

object being to enable the family to get over the financial crisis which it faces at the time of the death of the sole breadwinner, the compassionate employment cannot be claimed and offered whatever the lapse of time and after the crisis is over”.

12. In the aforesaid circumstance, the impugned order dated 19th November, 2024 passed by the West Bengal Administrative Tribunal does not require interference.

13. Hence, the writ petition being WPST 176 of 2025 stands dismissed.

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

15. All parties are to act on a server copy of this order duly downloaded from the official website of this Court.

I agree.

(Supratim Bhattacharya, J.)

(Madhuresh Prasad, J.)