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10.04.2025
Court No. 25
D.Hira

WPA 19936 of 2021

Wasim Khan & Anr.

Vs.

The State of West Bengal & Ors.

Mr. Uday Sankar Chattopadhyay,

Mr. Rajashree Tah,

Ms. Trisha Rakshit,

Ms. Aiswarya Datta.

... for the petitioners

Mr. Prosenjit Mukherjee,

Ms. Madhurima Sarkar.

**... for the Madrasah Service
Commission**

1. Affidavit-in-opposition on behalf of the respondent nos. 2 and 3/Madrasah Service Commission is filed in Court today. Let the same be taken on record.
2. The present writ petition is to challenge the order of the District Inspector of Schools, Secondary Education, Bankura dated June 29, 2021.
3. By dint of the same, the respondent D.I. has executed a fact finding enquiry as regards the 'financial hardship' of the writ petitioners, in connection with the matter of his appointment in died-in-harness category on compassionate ground and has ultimately found that the monthly family income of the petitioners after death of his father is Rs.17,860/-, which is more than the initial gross salary of a Group-D staff of the State Government, that is, Rs.16,140/- per month.
4. Therefore, by relying on the relevant provision in notification no. 697-ES/s/IS-18/08 dated July 9,

2009, the respondent D.I. has rejected the petitioners' prayer for compassionate appointment.

5. Mr. Uday Sankar Chattopadhyay, learned counsel appearing for the writ petitioners submits that the said fact finding authority/D.I. has calculated the gross family income of the petitioners on erroneous consideration of the component namely, 'other sources of income of (agriculture, profession, rent, land etc)' at the rate of Rs.2000/- per month though, however, there is no such other source of income in the family of the petitioners.
6. He says that due to such erroneous calculation, the fact finding authority/D.I. has come to a decision which may not be considered as just, legal and proper, to reject the petitioners' prayer as above.
7. According to Mr. Chattopadhyay, barring the said component as erroneously considered by the respondent D.I., the family income of the petitioners would come within the prescribed limit, in terms of G.O. No. 697-ES/s/IS-18/08 dated July 9, 2009, for the petitioner, to be eligible for being appointed on compassionate ground.
8. During his argument, Mr. Chattopadhyay, has relied on the documents annexed by the petitioner in the supplementary affidavit that is, the certificate issued by the Block Development Officer, Simlapal, Bankura and the Savapati Simlapal Panchayat Samity, Bankura to submit that according to the said certificates of the local authorities as above granted to

the writ petitioners, excepting the pension, there is no such source of income of the family of the petitioners.

- 9.** Under such circumstances, according to Mr. Chattopadhyay the fact finding authority may be directed to re-assess the family income of the writ petitioners, on the basis of the relevant documents, particularly the certificates issued by the component local authorities as above.
- 10.** None appears for the State respondent in spite of service of notice.
- 11.** Mr. Prosenjit Mukherjee, learned counsel is appearing for the Madrasah Service Commission.
- 12.** He has stated that unless the recommendation of the fact finding authority that is, D.I. reaches the desk of the said respondent, the same shall not have any role to perform in the matter, by recommending the petitioners' name for appointment on died-in-harness category.
- 13.** For this, he has relied on the provisions under the West Bengal Madrasah Service Commission Recruitment (Selection and Recommendation of Persons for Appointment and Transfer to the posts of Teacher and Non-Teaching Staff) Rules, 2010 (hereinafter referred to as "Rules of 2010").
- 14.** He has specifically relied on Sub-Rules 7, 8 and 10 of Rule 32 of the Rules of 2010, in support of his contention as above.
- 15.** Heard submissions and perused the records and documents, it appears that as per the certificate issued by the Block Development Officer as well as the

Savapati Simlapal Panchayat Samity, Bankura, the writ petitioner would not have any other source of income in the family, excepting the pension granted to the legal heir of the deceased person that is, the wife of the said deceased person.

- 16.** Furthermore, the Court finds that there is no breakup of the component of income alleged to have been a source of income of the writ petitioners' family that is, 'the other sources of income of agriculture, profession, rent, land etc.' at the rate of Rs.2000/- per month.
- 17.** Hence, therefore, the same appears to be rather a vague assessment.
- 18.** Considering as above, the Court is of the opinion that the said fact finding authority/D.I. in assessing the family income of the writ petitioners has considered erroneously, such component which might not have been attracted in case of the present writ petition., in view of the relevant documents as relied on by him.
- 19.** Apparently, those documents have not been considered by the said fact finding authority while assessing the family income of the petitioners.
- 20.** In such circumstances, the Court is inclined to set aside the impugned order dated June 29, 2021 of the District Inspector of Schools, Secondary Education, Bankura and allow the present writ petition with the following directions:-

(i). Impugned order dated June 29, 2021 of the District Inspector of Schools, Secondary Education, Bankura is set aside.

(ii). Let the District Inspector of Schools, Secondary Education, Bankura/respondent no. 4 consider the petitioners' prayer for appointment on compassionate ground afresh, in terms of the existing law, rules and regulations, particularly under the Rules of 2010 as mentioned above.

(iii). In doing so, let the said respondent afford opportunity of hearing to the writ petitioners and consider the documents as are relied on by him.

(iv). Let the said respondent thereafter, pass a reasoned order to dispose of the petitioners' prayer as above.

(v). The entire exercise as above should be concluded within a period of four weeks from the date of communication of copy of this order.

21. With the above observations and directions, the writ petition being No WPA 19936 of 2021 is disposed of, along with the pending applications, if any.

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

(Rai Chattopadhyay, J.)