

02.09.2025
Item No.14
Court No.11
Avijit Mitra

**MAT 1704 of 2024
with
IA No.CAN 1 of 2025**

**Dipak Ghosh
- Versus -
State of West Bengal & ors.**

Mr. Animesh Mukherjee,
Mr. Milan Maity,
Mr. Shahjamal Hazra,
Sk. Abu Jafor,
Mr. Kazi Asif Iqbal
....for the appellant

Mr. Arindam Chattopadhyay,
Ms. Lipika Chatterjee
...for the State

Affidavit-of-service, as filed, be kept on record.

The present appeal has been preferred challenging an order dated 27th June, 2024 passed by the learned single Judge in the writ petition being WPA 6689 of 2016 which was preferred by the writ petitioner/appellant herein, namely, Dipak Ghosh (in short, Dipak) challenging an order dated 17th November, 2015 passed by the Principal Secretary, School Education Department, Government of West Bengal.

The following facts are not in dispute. Dipak's father died-in-harness on 15th February, 2009 while working in the post of Assistant Teacher in a primary

school. To tide over the financial distress due to the loss of the sole bread earner, Dipak submitted an application for compassionate appointment on 4th September, 2009 when, admittedly, Dipak was below 18 years. As the said representation was not being considered, Dipak preferred a writ petition, which was disposed of by an order dated 9th November, 2011, directing the Secretary, School Education Department, West Bengal, to consider Dipak's claim. Pursuant to such direction, the Principal Secretary, School Education Department passed an order dated 28th March, 2012. Aggrieved by the said order, Dipak again preferred a writ petition being WPA 18486 of 2015 on 20th August, 2015. In the said writ petition, Dipak's claim was opposed placing reliance upon a judgment delivered in the case of *Piali Saha Vs. State of West Bengal & ors.*, reported in 2013(1) CHN 18 since Dipak could not attain 18 years of age within two years from the date of the death of his father. The learned single Judge was, however, of the opinion that in view of the judgment delivered in *Piali Saha (supra)*, the embargo was on the Court not on the Executive or the Legislature and accordingly, direction was issued for consideration of Dipak's representation by the competent authority. Pursuant to such direction, the Principal Secretary, School

Education Department, West Bengal passed an order dated 17th November, 2015 refusing Dipak's claim.

Mr. Mukherjee, learned advocate appearing for the appellant strenuously argues that Dipak's claim has not been considered since he attained majority only 47 days after expiry of the period of two years from the date of the death of his father. Such period of delay ought not to have been considered in isolation. As a model employer the State must conduct itself with high probity and candour and ensure that its employees do not succumb to the procedural rigmarole particularly when the dependants are the worst sufferers for the loss of the sole bread earner in the family. Without considering such circumstances, Dipak's claim was rejected by a cryptic order. Such argument, as urged, was glossed over by the learned single Judge and no finding was returned on the same and such infirmities warrant interference of this Court.

Mr. Chattopadhyay, learned advocate appearing for the State submits that a claim for compassionate appointment can only be considered in consonance with the rules framed for such purpose. The issue, as urged, in the writ petition has finally been decided in the judgment delivered in the case of *Piali Saha*

(*supra*). In the said judgment, it was categorically held that two year's period prescribed by the relevant rules cannot be extended by the Court. In view thereof, Dipak's claim was rightly refused.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, Dipak could not attain the age of 18 years within two years from the date of the death of his father. An identical issue was considered and finally decided by the Hon'ble Special Bench of this Court in the case of *Piali Saha (supra)* observing that the Court cannot extend the time limit in relation to a claim towards compassionate appointment, as fixed by the legislature. In the said conspectus, the learned single Judge rightly refused to exercise discretion in favour of Dipak. Furthermore, the death occurred in the year 2009 and that at this stage there is no element of immediacy involved and compassionate appointment cannot be also claimed as a matter of right.

The learned single Judge, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of

law in the order impugned, warranting interference of this Court.

The appellant's prayer is, accordingly, refused and the appeal along with the connected application is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)