

ML 237
13.01.2025
Ct. No. 18
adeb

W.P.A. 22693 of 2023

**Sri Sankar Prasad Ram
Vs.
The State of West Bengal & Ors.**

Mr. Tanmoy Mukherjee
Ms. Anuradha Poddar
Mr. Souvik Das

...for the petitioner

Affidavit of service filed on behalf of the petitioner is taken on record.

In the writ petition order dated 30th March, 2023 issued by the District Inspector of Schools (SE), Kolkata is under challenge whereby prayer of the petitioner to grant approval in his favour who is working as Group-D staff in the school from 1st August, 2004 due to death of his father who was also Group-D staff of the same school on 5th January, 1990, was rejected. Now petitioner prays for direction upon the State authorities for providing appointment on compassionate ground due to death of his father on 5th January, 1990. Petitioner prays for issuance of mandamus for setting aside the decision of the District Inspector of Schools (SE) Kolkata dated 30th March, 2023 and granting him appointment on compassionate ground due to his father's death in-harness.

No one is representing the State-respondents today.

However, on perusal of the writ petition it appears that previous writ petition being WPA 4808 of 2019 was filed with different prayer to grant approval of appointment in favour of the petitioner since he was working from 1st August, 2004 after his father's death on 5th January, 1990 and in spite of forwarding the issue by the school authority to the concerned District Inspector of Schools (SE) Kolkata no decision was taken on approval of appointment of the petitioner. On such premise order was passed on 6th February, 2023 directing the concerned District Inspector of Schools (SE) to take decision.

In terms of the order dated 6th February, 2023 District Inspector of Schools (SE) Kolkata has rejected the claim of the petitioner for approval of appointment since it was found that initial entry into the service of the petitioner was dehors relevant Government rules and orders. Nothing has been shown today that following the recruitment procedure petitioner was appointed as Group-D staff of the school with effect from 1st August, 2004. Therefore, to that extent decision of the concerned District Inspector of Schools (SE) Kolkata need not be interfered with.

In the present writ petition a case has been made out for giving direction to appoint the petitioner on

compassionate ground due to death of his father in-harness. Father of the petitioner died in-harness on 5th January, 1990 and at that point of time petitioner was minor. Moreover, it has been found by the concerned District Inspector of Schools that no application for appointment on compassionate ground was made due to death of petitioner's father within the prescribed period of two years. After death of father of the petitioner on 5th January, 1990 thirty five years have passed. The purpose of providing appointment on compassionate ground is to tide over immediate financial constraints. Such requirement cannot remain alive due to efflux of time. Moreover, in the first writ petition no case was made out for appointment on compassionate ground and in the present writ petition a new case has been made out. It is also settled that if a candidate is minor at the time of death of his father/mother he or she is not entitled to get the benefit of compassionate appointment.

Hence, no relief can be granted at this belated stage.

Writ petition stands dismissed.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)