

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present :-

The Hon'ble Acting Chief Justice Sujoy Paul
And
The Hon'ble Justice Partha Sarathi Sen

WPCT 314 of 2024

Meherunnecha Bibi and another
-Vs-
The Union of India and others

For the respondent petitioners:

Mr. M. A. Sardar
Mr. S. Haque

For the respondents:

Mr. Rahul Sarkar
Ms. Dipika Sarkar

Heard on : 04.12.2025

Judgment on : 04.12.2025

SUJOY PAUL, A.C.J. :-

1. The petitioners have fought a long drawn battle in corridors of the court. The husband of the petitioner no.1 and father of the petitioner no.2 died in harness on 29.01.1999. The petitioners after long correspondence with the department filed O.A. No.1561 of 2016 before the Central Administrative

Tribunal, Kolkata Bench (Tribunal), which was disposed of by directing the department to take a decision with stipulated time. Since no decision was taken for considerable long time and it was decided on 24th May, 2022, the petitioners filed WPCT 123 of 2022 before this court which was decided on 08.02.2023. This court set aside the impugned order of the authority assailed before the Tribunal as well as order of the Tribunal and directed to consider the application seeking compassionate appointment afresh on the basis of the Scheme/Rules prevailing at the time of death of government employee and not the new/modified Scheme which subsequently came into force.

2. The department, in turn, passed a speaking order dated 09.03.2023 (Annexure P-11), which became subject matter of challenge in O.A. 350/1157/2023. Learned Tribunal after completion of pleadings and after hearing parties, dismissed the O.A.
3. Learned counsel for the petitioners submits that petitioners made specific pleadings before the Tribunal that in view of the order of this court in aforesaid matter, consideration of

petitioner for compassionate appointment ought to have been on the basis of policy which was in vogue at the time of death of the employee and not on a subsequent policy. The calculation made by the department is based on subsequent policy. The Tribunal has not considered the pleading and argument of the petitioners based on the judgment of Calcutta High Court that the policy in vogue at the time of death is the policy on the anvil of which claim should be considered. Without considering this aspect, the Tribunal dismissed the O.A., which is bad in law.

4. The other side supported the order of the Tribunal.
5. We have heard the parties at length. The petitioners have pointed out that specific pleading was made in para xxviii (page 26 of O.A.) that the petitioners' case is rejected in terms of new scheme of compassionate appointment and not as per the old policy. Thus, it is clear that a point which goes to the root of the matter has escaped the notice of learned Tribunal. The Tribunal ought to have considered the validity of the impugned speaking order on the touchstone of the policy which was in vogue at the time of death of father of petitioner

no.2. Having failed to undertake that adjudication exercise, order became vulnerable and cannot be countenanced. Resultantly, order dated 22.08.2024 passed in O.A. 350/1157/2023 is set aside. Said O.A. is restored to its original number. The Tribunal shall rehear the parties and decide the matter in accordance with law, keeping in mind the order passed by this court in the previous round of litigation. Since it is a matter of compassionate appointment, we request the Tribunal to decide it within 3 months from the date of production of copy of this order.

6. It is made clear that this court has not expressed any opinion on the merits of the case.
7. WPCT 314 of 2024 is disposed of.
8. Urgent Photostat certified copy of this judgment, if applied for, be given the parties upon compliance of all necessary formalities.

(Sujoy Paul, A.C.J.)

I agree.

(Partha Sarathi Sen, J.)