

14
13.05.2025
Court No. 25
D.Hira

WPA 27848 of 2016

**Sukanta Chowdhury & Ors.
Vs.
State of West Bengal & Ors.**

**Mr. Sujit Kumar Rath,
Mr. Sukumar Sarkar.
... for the petitioners**

**Mr. Avishek Prasad,
Mr. Sourodeep Singha.
... for the DPSC, Malda**

**Mr. Pinaki Dhole,
Ms. Indrani Nandi.
... for the State**

1. An order of the Chairman, District Primary School Council, Malda dated July 4, 2016 is under challenge in the instant writ petition.
2. The issue involved in the instant writ petition is the prayer for compassionate appointment of the petitioner, who happens to be one of the legal heirs of the deceased school teacher.
3. The school teacher as mentioned above, was declared physically incapacitated to perform her duties with effect from November 4, 2009.
4. Thereafter, she has died on February 22, 2013. In the meantime, on November 9, 2010, she was divorced from her husband. Since thereafter, the petitioner no. 1 has been the dependent legal heir of his mother.
5. In the impugned order dated July 4, 2016, the Chairman, District Primary School Council, Malda has cited the reason that since the petitioner has not submitted before it, the document relating to his

father's income and in support of the landed property therefor, the respondent was unable to ascertain the 'financial hardship' of the petitioner as per the Rules, on the date when the said teacher was declared physically incapacitated to perform.

- 6.** Mr. Avishek Prasad, learned counsel appearing for the District Primary School Council, Malda has stated that for ascertaining whether the petitioner is eligible for being appointed on compassionate ground, as per the Rules, the said respondent is obliged to come to a finding as regards the 'financial hardship' of the petitioner.
- 7.** Since due to non-cooperation by filing the requisite documents by the petitioner, the respondent is unable to come to a finding as above, Mr. Prasad supports the impugned order and submits that no interference thereto is necessary.
- 8.** Having heard the learned counsels for the parties, the Court has come to the decision as follows:-
- 9.** The respondent Chairman, District Primary School Council, Malda has intended to ascertain the 'financial hardship' of the petitioner since from the date when his mother was declared physically incapacitated that is, November 4, 2009 and desired to ascertain the 'financial hardship' of the petitioner in accordance with the Rules as on the said date from when his mother has been forced to retire, due to her physical incapacity.
- 10.** However, the fact remains that subsequently the mother of the petitioner was divorced and since

thereafter, the petitioner no. 1 has been residing with his mother till her death.

11. Therefore, since after divorce of the said school teacher, the petitioner has been totally dependent on the mother and after death of the mother would be eligible for grant of compassionate appointment, he being the dependant family member of the said deceased school teacher.

12. It may happen that the mother of the petitioner since deceased, made an application before the authorities for grant of compassionate appointment to the petitioner on the ground of her premature retirement due to physical incapacity before her divorce that is, July 29, 2010.

13. However, during pendency of that application and in view of the subsequent change of events, there shall not be any bar for the said respondent authority to consider the petitioner's prayer for grant of compassionate appointment, on the basis of such subsequent change of events and the relevant information as available, on the date of death of his mother.

14. Accordingly, the Court is inclined to set aside the impugned order dated July 4, 2016 and dispose of this writ petition by directing the said respondent that is, Chairman, District Primary School Council, Malda to consider the petitioner's prayer for grant of compassionate appointment afresh, taking into consideration, the relevant materials as on the date of death of the mother of the petitioner no. 1 and

ascertaining 'financial hardship' on the basis of the same, in accordance with the law.

15. In doing so, he may grant opportunity of hearing to the petitioner no. 1, if so found necessary and pass a reasoned order, if not the prayer of the petitioner is immediately allowed by the same.
16. Needless is to mention that in the event, the said respondent finds the petitioner's appointment to be granted, necessary follow up steps shall be taken by it immediately thereafter.
17. Let the entire exercise as above be concluded by the respondent Chairman, District Primary School Council, Malda within a period of six weeks from the date of communication of copy of this order.
18. Since no affidavit is invited, the allegations contained in the petition are deemed to have been denied by the respondents including the private respondents.
19. With the above observations and directions, the writ petition being No WPA 27848 of 2016 is disposed of, along with the pending applications, if any.
20. Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)