

10.04.2025
Item no. 11.
Court No.1.
AB

**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

**M.A.T. 4 of 2025
With
CAN 1 of 2025
CAN 2 of 2025**

**Sachin Tamang
Vs
The Principal Secretary,
Public Enterprises & Industrial Reconstruction
Department & Ors.**

Mr. Pratap Khati,
Ms. Bandana Raifor the Appellant.

Mr. Hirak Barman,
Mr. Pradip Sarkarfor the State.

Dictated by Arijit Banerjee, J.

1. By consent of the parties, the appeal and the applications are taken up for hearing together.

In re : CAN 1 of 2025

2. This is an application for condonation of delay of 16 days in filing an appeal. Causes shown being sufficient, the delay is condoned.

3. CAN 1 of 2025 is, accordingly, disposed of.

In re : MAT 4 of 2025, CAN 2 of 2025

4. Under challenge in this appeal is a judgment and order dated September 23, 2024, passed by a learned Judge of this Court, whereby the appellant's writ petition being WPA 1862 of 2024 was dismissed.

5. It appears that the appellant's mother was an employee of Darjeeling Ropeway Company Limited, the respondent no.4 herein, which is a State Government Undertaking. She died in harness in March, 1997.

6. The appellant/writ petitioner claims that he applied for appointment on compassionate ground in the year 1998. Since the application was kept pending, the appellant approached this Court in its Writ Jurisdiction in the year 2014 by filing W.P. No.25385 (W) of 2014. By an order dated September 15, 2014, a learned Judge of this Court directed the Competent Authority to consider and dispose of the appellant's application for compassionate appointment. However, even thereafter, nothing happened.

7. In the aforesaid factual background, the appellant approached this Court again by filing the present writ petition which was dismissed by the learned Single Judge.

8. The learned Judge noted a Memo dated February 10, 2016, issued by the Commissioner of Public Enterprise & Industrial Reconstruction Department which mentions that the Finance Department has opined that the question of appointment on compassionate ground of the dependents of employees of Darjeeling Ropeway

Company Limited, may not arise as there is no policy of appointment on compassionate ground in the State Public Sector Enterprises. The learned Judge came to the conclusion that in the absence of a proper scheme, the Respondent Authorities may not be in a position to consider the writ petitioner's prayer for compassionate appointment.

9. Learned Judge dismissed the writ petition with the following observations:

“The Court is afraid that the aforesaid submission of the petitioner cannot be accepted.

Compassionate appointment are to be dealt with in a very time bound manner as the same is meant to tide over the immediate financial crisis faced by the family of the deceased employee.

In the instant case, the mother of the petitioner died in harness in March, 1997. The prayer of the petitioner in late 2024 for being considered for appointment on compassionate ground cannot be allowed“.

10. Being aggrieved, the writ petitioner is before us by way of this appeal.

11. Learned Advocate for the appellant says that at least three persons have been granted appointment on compassionate ground upon death of the original employee being their father/mother. If that could be done, there is no reason why the present appellant should also not be treated equally. There cannot be discrimination.

12. Learned Advocate for the respondents, on the other hand, says that the hands of the respondents

are tied. Since there is no scheme for granting compassionate appointment, even if the respondents have full sympathy for the appellant, nothing can be done.

13. Firstly, the appellant waited for an inordinately long period of 16 years before approaching this Court in 2014. Secondly, even after 2014, the appellant sat tight over his alleged rights for the next 10 years till 2024.

14. Most importantly, without a scheme for compassionate appointment, no State Public Sector Enterprise can grant such appointment to a relative of an employee who dies in harness. Even assuming that three other persons were appointed on compassionate ground, the same may have been irregular or contrary to law and the same cannot confer any right on the appellant. Article 14 of the Constitution does not contemplate negative equality.

15. Therefore, we do not find any apparent infirmity in the judgment and order under appeal. We may have full sympathy for the appellant. However, sympathy cannot be the basis for passing orders in a Court of Law.

16. The appeal, therefore, fails and the same is dismissed along with the connected applications.

17. However, the appellant may make an appeal to the Principal Secretary, Public Enterprise &

Industrial Reconstruction Department, Government of West Bengal, if so advised. If such an appeal/representation is made, the Principal Secretary is requested to dispose of the same in accordance with law as expeditiously as possible.

18. All parties shall act in terms of server copy of the order downloaded from the official website of this Court.

(Biswaroop Chowdhury, J.)

(Arijit Banerjee, J.)