

Form No. J(2)

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

**CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 254 of 2025

Dilip Roy & Anr.

-vs-

The Stat of West Bengal & Ors.

For the Petitioners

: Mr. Soumyajit Laskar

For the State

: Mr. Subir Kumar Saha, Ld. AGP
: Mr. Bikash Singha

Heard on : 29.07.2025

Judgment on : 29.07.2025

SAUGATA BHATTACHARYYA, J.:

1) Matter is heard in presence of learned advocates representing the parties.

2) By presenting this writ petition, petitioner no.1 being son of a deceased Lab Assistant of a Government aided college due to death of his father in harness on 18th October, 2019 seeks appointment on

compassionate ground considering his representation dated 4th December, 2019, which was not considered by the concerned respondent authorities.

3) Report has been filed on behalf of the concerned respondent authority in the form of affidavit affirmed on 28th March, 2025 wherein it is disclosed that there is no prevalent scheme which empowers the concerned respondent authority to appoint the petitioner no. 1 on compassionate ground due to death of his father in harness who was working as Lab Assistant in a college. It is also stated in the report that Special Leave Petitions relating to appointment on compassionate ground due to death of employees of Universities and Government aided colleges in the State of West Bengal are pending before the Hon'ble Supreme Court and the orders passed by the Hon'ble High Court at Calcutta have been stayed. In this regard, a list of five Special Leave Petitions along with necessary details are indicated in paragraph 8 of the report. Said report is taken on record.

4) While deciding the claim of the petitioner no. 1 for appointment on compassionate ground what is necessary is whether petitioner no. 1 is conferred right to pray for appointment on compassionate ground due to death of his father in harness in terms of relevant scheme or not. Since appointment on compassionate ground is not vested right and in absence of relevant scheme, prayer for appointment on compassionate ground cannot be entertained.

5) During course of hearing, nothing is placed before this Court from where it can be inferred that there is existence of scheme

providing appointment on compassionate ground due to death of an employee working in a Government aided college.

6) One communication dated 19th May, 2014 issued by the OSD & Ex-Officio Assistant Secretary, Higher Education Department, Government of West Bengal is annexed at page 14 of the report filed on behalf of State respondents wherefrom it transpires that the extant Rules and Regulations for appointment on compassionate ground are applicable only in respect of State Government employees and these are not automatically applicable for the employees of State aided Universities and non-Government institution and such clarification was made based on observation made by the Finance Department on 1st April, 2013. Vide said communication dated 19th May, 2014 since there was no contemplation on the part of the State Government to extend the benefit of appointment on compassionate ground to the employees of non-Government aided institutions, proposals forwarded for appointment on compassionate ground due to death of employees of non-Government aided institutions cannot be entertained.

7) Therefore, what is important in this case is non-existence of relevant scheme conferring right upon one family member of the deceased employee died in harness to be considered for appointment on compassionate ground.

8) In addition thereto, father of the petitioner no.1 died on 18th October, 2019 and in the meantime six years have passed. Object of providing appointment on compassionate ground is to tide over immediate financial constraint due to untimely death of bread earner.

Such requirement gets diluted in the present case in view of expiry of six years.

9) While considering claim of the petitioner for appointment on compassionate ground, reliance is placed on the judgment of the Hon'ble Supreme Court reported in **2025 SCC OnLine SC 290 (Canara Bank Vs. Ajithkumar G.K.)** wherein Hon'ble Supreme Court made relevant observations taking note of all the previous judgments of the Hon'ble Supreme Court relating to appointment on compassionate ground.

10) In view of aforesaid discussion, no relief can be granted to the petitioners.

11) Writ petition stands dismissed.

12) There shall be no order as to costs.

13) Urgent photostat certified copy of this judgment, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)