

17.06.2025

Court No.1

Item No.13

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**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION**

WPST 5 of 2025

**Nilratan Barman
versus
The State of West Bengal & Ors.**

Mr. S. M. Obaidullah (VC)
Ms. Ankita Dey

....for the Petitioner

Mr. Momenur Rahman,
Mr. Sumit Kumar,

.. . . for the State.

Affidavit of service filed in Court today is taken on record.

This judicial review arises out of an order dated 21st March, 2025 passed by the West Bengal Administrative Tribunal in OA 1006 of 2017 by which the applicant's application *inter alia* for a direction upon the respondent authorities to give compassionate appointment to the applicant was rejected. It is the case of the applicant that the applicant's father while serving the Department of Agriculture, Government of West Bengal died-in-harness on 4th October, 2002. The applicant states that the applicant's mother made an application on 13th December, 2002 for granting

compassionate appointment in favour of the applicant. Subsequently the applicant made an application for granting him compassionate appointment on 30th August, 2007. The matter thereafter has been travelling from one forum to the other after the respondent authorities had rejected the applicant's application for compassionate appointment on the ground of delay.

Challenging the inaction on the part of the respondent authorities, the applicant filed an original application before the West Bengal Administrative Tribunal being OA 415 of 2011 which was disposed of by an order dated 3rd August, 2011 directing the Deputy Director of Agriculture (Admn), Department of Agriculture to consider the applicant's application together with all annexures and dispose of the same by passing a speaking and reasoned order. It is the further case of the applicant that despite such order, no reasoned order was passed by the concerned respondent authority, as a consequence whereof the applicant had to file a further application before the Administrative Tribunal being OA 643 of 2016 which was disposed of by an order dated 12th July, 2016 directing the Principal Secretary to the Government of West Bengal, Department of Agriculture to take a decision in respect of the petitioner's prayer for compassionate appointment within the time specified therein. The Additional Chief Secretary to the Government of West Bengal,

Department of Agriculture, Law & Vigilance Branch passed a reasoned order on 6th June, 2017. Challenging the said reasoned order the petitioner filed another original application being OA 1006 of 2017. The said application was disposed of by an order dated 8th July, 2019 by which the decision of the Additional Chief Secretary to the Government of West Bengal was affirmed. Challenging the said order the petitioner preferred a review application being RA No.9 of 2019. This review application was rejected by an order dated 14th February, 2020.

Challenging the orders dated 8th July, 2019 and 14th February, 2020 the applicant filed a judicial review before this Court being WPST 1 of 2021. The said writ petition was allowed. The principal ground on which the said writ petition was allowed is that the Tribunal did not take into account the application said to have been made on 13th December, 2002 which was followed by a further request made on 30th August, 2007 by the applicant. The learned Tribunal was, therefore, directed to permit the petitioner to place on record the letter dated 13th December, 2002 by way of an affidavit and an opportunity was also given to the State respondents to file a rejoinder thereto. The said application being OA 1006 of 2017 on having been revived has been dismissed by an order dated 21st March, 2025 which is the subject matter of challenge in this writ petition.

On a perusal of the said order, it is evident that the applicant could not produce a copy of the application dated 13th December, 2002 but had produced a plain paper letter by a memo bearing no.150 dated 14th December, 2022. On a query from Court it is submitted by the applicant and not disputed by the respondents that the same has been wrongly recorded as 14th December, 2022 instead of 14th December, 2002. The petitioner has referred to Annexure 'K' at page 152 of the writ petition in this regard and has relied upon an endorsement at the left hand bottom corner of the said page to memo no.150 and has also shown the endorsement below the same by which it appears that the application said to have been made by the petitioner's mother was recommended and forwarded to the Additional Director of Agriculture (referred to as A.D.O), Sitai for taking necessary action. The Tribunal has taken note of this document but has not dealt with the same although this Court by its order dated 22nd December, 2021 had specifically directed the Tribunal to take note of such application. The endorsement below memo no.150 dated 14th December, 2002 prima facie suggests that such an application was made which was forwarded to the Additional Director of Agriculture. Once the initial burden is discharged by the applicant the burden shifts on the respondent to rebut the same. It also appears from the said document that the

applicant's mother had prayed for compassionate appointment for the petitioner. The applicant's request made on 30th August, 2002, therefore, appears to be a follow up.

In the aforesaid facts and circumstances, we find that the Tribunal has not acted in terms of the direction given by this Court vide order dated 22nd December, 2021 passed in WPST 1 of 2021. Although, the whole basis of compassionate appointment is to give immediate relief to the bereaved family to tide over the financial crisis suffered due to the loss of the sole bread earner and such object gets frustrated on there being inordinate delay but in the instant case the applicant cannot be blamed for the same as the applicant on finding that his mother's application dated 13th December, 2002 having not been considered had filed a further request letter on his behalf to the respondent authorities. The events which occurred subsequent thereto have been narrated hereinabove. A Co-ordinate Bench had also accepted the plea of the applicant even in 2021. It is true that successive writ petitions to achieve a favourable order in favour of a litigant is an abuse of process as held in the judgment reported in (2006) 3 SCC 674 [A. P. SRTC and Ors. Vs. G. Srinivas Reddy and Ors.] but the same principle cannot be applied in this case.

In the aforesaid facts and circumstances, the order passed by the West Bengal Administrative Tribunal dated 21st March, 2025 in OA 1006 of 2017 is set aside. The Tribunal is directed to consider the document being Annexure 'K' at page 152 of this writ petition in the light of the discussions as hereinabove and decide the applicant's claim for compassionate appointment afresh giving the applicant a reasonable opportunity of hearing.

Nothing further remains to be adjudicated in this writ petition.

WPST 5 of 2025 is, accordingly, disposed of.

(Arindam Mukherjee, J.)

(Partha Sarathi Chatterjee, J.)