

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

02 **07.01.2025**
 Ct. No.01
 Sws.M

WPA 2424 of 2024

Smt. Ritu Harijan

-Vs.-

The State of West Bengal & Ors.

Mr. Anupam Hait

Mr. Sudhindra Das

...for the petitioner

Mr. Nabankur Paul

Ms. Pratusha Dutta Choudhury

...for the State

This is the second round of litigation between the parties.

The grievance of the petitioner is directed against an order dated 8 June, 2023.

Briefly, the petitioner's husband one late Dipak Harijan was a sweeper (Group – D) of Falakata College, Jalpaiguri. He had joined service on 23 December, 1987. He expired on 25 August, 2010, while in service leaving behind the petitioner and three daughters.

Upon his death, an application for compassionate appointment was made on 2 February, 2011.

In a prior round of litigation, being WP 28867(W) of 2017 alleging of in-action on the part of the respondent authorities, a Co-ordinate Bench had

directed the concerned college authority to consider the petitioner's application.

Pursuant to the said direction, an order dated 8 June, 2023 being the impugned order came to be passed, wherein the respondent authorities have rejected the prayer for compassionate appointment primarily on the ground that there is no Government Rule or Scheme for extending the benefit of compassionate appointment to a member of a deceased employee of a Government aided college and North Bengal University as also the statute is silent on the authority of the governing body of a Government aided college to grant such compassionate appointment.

On behalf of the petitioner it is contended that the impugned order is liable to be set aside on the ground that it does not take into account the Government Notification dated 6 June, 2005 whereby the benefit of compassionate appointment had been granted in favour of non-teaching employee of Government aided college. It is further contended on behalf of the petitioner that the impugned order also does not deal with an unreported decision of this Court passed in *MAT 1878 of 2023 (The State of West*

Bengal & Ors. vs, Shramati Binapani Murmu & Ors.).

It is also contended on behalf of the petitioner that in view of the delay caused by the respondent authority in disposing the prayer of the petitioner, the petitioner failed to file this application within a considerable period of time and that the respondent authorities cannot take advantage for such delay.

On behalf of the respondent authorities it is contended that the impugned order is a well reasoned order and takes into consideration all the facts and circumstances of the case. In passing the impugned order, the respondent authorities have arrived at a conclusive finding that in the absence of any Scheme or Rule extending the benefit of compassionate appointment, there is no provision for granting the same.

A striking feature of this case is the inordinate and unexplained delay of the petitioner in pursuing the cause for compassionate appointment. Admittedly, the husband of the petitioner had expired as far back as on 25 August, 2010. Despite the application for compassionate appointment being made on 2 February, 2011, the petitioner has slept over his rights for more than a decade.

It is fundamental that an appointment on compassionate grounds is to meet the sudden occurring in a family on account of the death of the sole bread earner while in service. The rationale underlying compassionate appointment is that the same is granted in the interests of justice to meet contingencies. Compassionate appointment cannot be given as a matter of right but only to the deserving families to tide over immediate crisis. A court cannot stretch the provisions of compassionate appointment by liberal principles on humanitarian grounds. The object is to give succor to the family which has been suddenly plunged into penury due to such untimely death of the sole bread winner (*Canara Bank & Anr vs M. Mahesh Kumar*, (2015) 7 SCC 412 and *Umesh Kumar nagpal vs State of Haryana & Ors* (1994) 4 SCC 138).

In view of the inordinate, unexplained and unjustified delay in having the application for compassionate appointment being disposed of, any such order after a period of more than a decade would be inconsistent and irreconcilable with the object and rationale behind compassionate appointment (*State of U.P. & Ors vs. Paras Nath*,

(1998) 2 SCC 412 and Dhalla Ram vs. Union of India & Ors, (1997) 11SCC 201).

In any event, the impugned order is reasoned and has been passed after considering all the facts and circumstances of the case. The finding that there is no provision of law or policy or scheme for granting of compassionate appointment insofar as the relevant statute is concerned has not been controverted by the petitioner.

The decision rendered in the case of *State of West Bengal vs. Shramati Binapani Murmu & Ors. (Supra)* is distinguishable and inapposite. The subject statute which was in question in the said decision is quite different and inapplicable to the present case. In fact, in that case, the proviso to section 162 of the relevant statute provided for appointment on compassionate grounds.

In view of the above, there is no merit in the writ petition.

WPA 2424 of 2024 stands dismissed.

However, there shall be no order as to costs.

(Ravi Krishan Kapur, J.)