

2. The petitioner applied for re-consideration of the prayer for compassionate appointment. The same has been rejected on the same line by

passing order on 5th January, 2024. The rejection is under challenge in the instant writ petition.

3. Learned advocate for the petitioner refers to the notification dated 1st March, 2016 published by the Labour Department amending the earlier notification of the Department, being 251-Emp dated 3rd December, 2013. The amended provision being Clause/Para No.10(bb) added to the parent notification dated 3rd December, 2013, runs as follows:

“10(bb). *The concerned authority in the department/office should meet the members of the family of the deceased Govt. servant immediately after his death to advise and assist them in getting appointment on compassionate ground. The applicant should be called in person at the very first stage and should be advised in person about the requirement and formalities to be completed by him. A record of such meeting should be kept with the office of the controlling authority and appointing authority.”*

4. The amended notification also mentions that a simplified application form/proforma will be introduced soon and will be sent to all the departments in due course. A checklist shall be prepared by the Labour Department and would be sent to all Departments to examine each case properly and objectively. Each case must be examined apropos the checklist, report of the screening-cum-enquiry committee and the application of the concerned applicant.

5. It has been submitted that the aforesaid revised provision was never made known to the petitioner. The petitioner applied for compassionate

appointment with promptitude as the family was left without any income on the death of his father, but the same has been illegally and arbitrarily rejected by the authority.

6. Reliance has been placed on the judgment delivered by this Court on **16th June, 2025** in **WPA 7615 of 2025 (*Bishnu Rajak v. The State of West Bengal & Ors.*)** wherein the Court was pleased to decide a similar issue.

7. Prayer has been made to direct the respondent authority to reconsider the prayer of the petitioner for grant of compassionate appointment.

8. Learned advocate representing the respondents relies on the report prepared by the Executive Engineer, Malda Highway Division, Public Works (Road) Directorate, being the respondent no.4. The same ground of non-filing of the application in the prescribed format within the stipulated time period has been highlighted. It has been submitted that the petitioner was a major at the time of death of his father and he ought to have submitted his application in the prescribed format within the stipulated time period.

9. It has been contended that as the application was not made in accordance with the scheme, the same has been rightly rejected by the authority. Prayer has been made not to interfere in the instant case.

10. After hearing the submissions made on behalf of both the parties and on perusal of the documents placed before this Court, it is evident that the

application seeking compassionate appointment was made by the widow less than a month after the death of the employee. The application made by the petitioner was made immediately a month after the death of the employee.

11. The amended notification came into force on 1st March, 2016. The same was very much in force and applicable when the employee died in harness. The petitioner was never made aware of the amended provision. The authority did not meet the members of the petitioner's family after the death of his father. No assistance was provided to the family members for getting compassionate appointment.

12. The application made by the petitioner seeking compassionate appointment was already on record since September 2017. None of the authorities bothered to advise the petitioner or the widow about the requirement and the formalities to be complied with for the purpose of obtaining compassionate appointment. The revised provision of the notification requires a record of the meeting to be kept in the office of the controlling and appointing authority. There is no record to that effect.

13. The Court in Bishnu Rajak (supra) noted that the amended provision is an obligatory one and the authority ought to have followed the same.

14. In the instant case, it is seen that despite an application being made by the petitioner in September 2017 after the death of his father in August 2017, the same stood rejected in the year 2023 on the ground of not making the application in the prescribed format within the stipulated time period. The

authority ought to have brought to the notice of the family members of the deceased regarding the requirements of filing the application in the prescribed format within the stipulated time period. The same not being done, there has been violation of the amended provision of the Rules relating to compassionate appointment. The petitioner cannot be blamed for not filing the application in the prescribed format within the stipulated time period.

15. Amendment was brought in the parent notification extending the time limit for filing application for appointment on compassionate ground. A simplified proforma for making application was also introduced. The changes were made so that the family members of the deceased could avail the benefit of scheme. A beneficial legislation ought to be given the maximum publicity so that the very purpose for legislating the same is achieved. The objective with which the scheme is framed gets frustrated if the same is not acted upon by the authority.

16. The primary reason to make the amendment was to ensure that the family members of the deceased can be properly guided to make the application seeking compassionate appointment to save the family of the deceased to tide over the financial crisis faced on the death of the bread winner. Each case was required to be examined individually. The requirement of maintaining record of the meeting with the family member of the deceased implies the mandatory obligation of the controlling and appointing authority in drawing their attention about the existence of the scheme and the manner how to proceed in accordance with the same.

17. The authority failed to appreciate the urgency and the immediacy with which applications for compassionate appointments are to be dealt with. Nearly nine years have elapsed from the date of death of the employee and his heir is running from pillar to post and has been compelled to knock the doors of justice to secure a job on compassionate ground for survival of the family. Immediately on receipt of the application in the year 2017, the petitioner ought to have been guided in the proper manner so that he could have taken steps in accordance with the scheme.

18. The controlling and appointing authority have plainly failed and neglected to act in terms of the amended provision of the scheme. In view of the above, the rejection made by the authority initially on 12th July, 2023 and later on 5th January, 2024 cannot be permitted to stand and are liable to be set aside.

19. Both the rejections accordingly stand set aside being contrary to the revised provision of the notification dated 1st March, 2016.

20. The concerned authority of the respondents is directed to re-consider the prayer of the petitioner seeking compassionate appointment in accordance with the amended provision of the scheme and dispose of the same at the earliest but positively within a period of eight weeks from the date of communication of this order.

21. If the petitioner is required to comply any further formalities for the purpose of consideration of his application seeking compassionate

appointment, the same shall be made known to the petitioner in writing. The petitioner shall be provided an opportunity of hearing for production of necessary documents in support of his claim for compassionate appointment.

22. A reasoned order shall be passed and communicated to the petitioner.

23. If the prayer of the petitioner for compassionate appointment is accepted, then necessary consequential steps shall be taken by the authority without any further delay.

24. The writ petition stands disposed of.

25. Exception of the petitioner to the report filed on behalf of the respondent no.4 filed in Court today be retained with the records.

26. All parties shall act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

27. Urgent photocopy of the certified copy of this judgment, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)