

29.06.2026
Sl. No.29
Ct. No.14
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 1703 of 2025

**Renuka Bhuniya
Versus
The State of West Bengal & Ors.**

Mr. Ekramul Bari
Mr. Bibekananda Tripathy
...for the Petitioner.

Mr. Brijendra Pratap Singh
Mr. Asit Kumar De
...for the State.

1. Report filed by the State is taken on record.
2. By the present writ petition, the petitioner seeks for cancellation and/or withdrawal of Memorandum No.1497/D.H dated 3rd August, 2023 of Chairman, District Primary School Council, Purba Medinipur of not allowing the prayer of the petitioner seeking appointment on compassionate ground and Memorandum No. 924/1(1)/SC/P dated 6th November, 2023 of Commissioner of School Education of not considering the prayer of the petitioner for relaxation of the age in such appointment.
3. The petitioner contends that her husband late Biswajit Bhuniya was Acting Headmaster of Chargolia School under Nandigram East Circle, Purba Medinipur. The petitioner's husband died-in-harness on 7th June, 2021. Upon demise of her husband, the petitioner made an application on 27th September, 2022 before

the authority concerned for her appointment on compassionate ground. However, the application of the petitioner for appointment on compassionate ground in Group-‘C’ and/or Group-‘D’ post was rejected on the ground that she exceeded the upper age limit of 45 years at the time of death of her husband which contravenes the Notification No.331-SE(P)/10M-06/2009 dated 26th June, 2009. Thereafter, on 12th August, 2023, the petitioner made another application for relaxation of the upper age limit which was forwarded to the Commissioner of School Education, Government of West Bengal. However, the same was not considered since the Commissioner of School Education observed that he was not the competent authority to relax the upper age limit for appointment on compassionate ground under died-in-harness category. On 16th December, 2024, the petitioner made an application before the Principal Secretary, School Education Department, Government of West Bengal seeking for relaxation of the upper age limit for appointment on compassionate ground. However, the same is still pending. Hence this writ petition.

4. Mr. Ekramul Bari, learned Advocate appearing on behalf of the petitioner submits that the application of the petitioner seeking compassionate appointment has been turned down by the Chairman, District Primary School Council, Purba Medinipur vide letter dated 3rd August, 2023 only on the ground that the age of the

petitioner has exceeded the upper age limit of 45 years by 4 months 12 days. The Commissioner of School Education, Government of West Bengal has not considered the aspect of relaxation of upper age limit on the ground that he is not the competent authority to relax the upper age limit. Referring to proviso to Rule 6 of West Bengal Primary School Teachers Recruitment Rules, 2001 (*hereinafter referred to as the 'Rules of 2001'*) he submits that the upper age limit is not an absolute bar and the Secretary of School Education Department, Government of West Bengal being the higher authority can pass order for relaxation of the upper age limit pursuant to order passed by any Court of competent jurisdiction. Moreover, the object of compassionate appointment scheme is to provide immediate succour to the family of the deceased. If the concept of upper age limit is made applicable, in such event in many cases, the person entitled to such appointment will be deprived as in the case at hand. To buttress his contention, he relies on the decision of the High Court of Gauhati in ***Rina Barman Kalita –versus- State of Assam, represented by the Chief Secretary to the Government of Assam and others***, reported in **2021 SCC OnLine Gau 1747**. In light of his aforesaid submissions he seeks for relaxation of upper age limit for appointment of the petitioner on compassionate ground.

5. Mr. Brijendra Pratap Singh, learned Advocate representing the State-respondent submits that as per the provision of Chapter IV read with Schedule V of the West Bengal School Service Commission (Selection of Persons for Appointment to the post of Non-Teaching Staff) Rules, 2009 (*hereinafter referred to as 'Rules of 2009'*), the maximum age for appointment on compassionate ground for non-teaching staff against any deceased primary school teacher is 45 years. The petitioner has crossed the upper age limit of 45 years and as such, the application of the petitioner seeking appointment on compassionate ground has been rightly turned down by the Chairman, District Primary School Council, Purba Medinipur. Further there is no financial hardship as such of the petitioner since she is receiving family pension upon demise of her husband. He seeks for dismissal of the writ petition.
6. Chapter IV read with Schedule V of the Rules of 2009 provides that the upper age limit for appointment on compassionate ground for non-teaching staff against any deceased primary school teacher, who dies in harness, is 45 years. The petitioner has sought for appointment under Group-C 'Clerk' post on compassionate ground. The age of the petitioner exceeds the upper age limit of 45 years by 4 months 12 days.
7. Mr. Bari, learned Advocate for the petitioner has relying on Rule 6 of Rules, 2001 argued that the State

Government can issue appropriate order of relaxation of age to a specific category of candidates or some categories of candidates pursuant to order passed by any Court of competent jurisdiction. Be that as it may, such provision under Rule 6 provides the requisite qualification with regard to appointment of primary school teacher and does not pertain to appointment on compassionate ground in Group-C category. Therefore, the argument advanced on behalf of the petitioner as above does not stand to reason.

8. The materials on record show that on 3rd August 2023, the Chairman, Purba Medinipur, DPSC observed that the prayer of the petitioner for appointment on compassionate ground may not be considered due to over age. Subsequent thereto on 12th August, 2023 the petitioner sought for relaxation of age before the Commissioner of School Education. Such prayer of the petitioner has been negated by the Commissioner of School Education on the ground that he is not the competent authority to relax the upper age limit for appointment on compassionate ground under died-in-harness category. Thus, it manifest that the Commissioner of School Education, Government of West Bengal has not taken a decision towards relaxation of age since he was not the competent authority. Be that as it may, the Commissioner of School Education, in such event could have forwarded the prayer of the petitioner for relaxation of age to the

competent authority for taking a decision on merit, which has not been taken recourse to in the present case.

9. In view of the above, the letter of the respondent no.2, Commissioner of School Education, Government of West Bengal dated 6th November, 2023 is hereby set aside.
10. Accordingly, respondent no.2, Commissioner of School Education Department, Government of West Bengal is directed to forward the prayer of the petitioner for relaxation of upper age limit dated 12th August, 2023 for getting appointment on compassionate ground under died-in-harness category to the respondent no.1, Secretary, School Education Department, Government of West Bengal for taking a decision with regard to relaxation of age of the petitioner within a period of six weeks from the date of communication of this order, upon giving an opportunity of hearing either to the petitioner or her authorised representative and pass a reasoned order in accordance with law.
11. The reasoned order shall be communicated to the petitioner within a period of one week of passing thereof.
12. With the above direction, the writ petition being **WPA 1703 of 2025** stands disposed of.
13. Petitioner is directed to communicate this order to the Commissioner of School Education, Government of West Bengal for necessary compliance.

14. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.
15. Interim order, if any, stands vacated.
16. All connected applications, if any, stand disposed of.
17. There shall be no order as to costs.
18. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.
19. Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)