

W.P.S.T. 14 of 2024

**Raisuddin Seikh
Vs.
The State of West Bengal & Ors.**

Mr. Udayan Chakravarty, Sr. Adv.,
Ms. Nilanjana Das Gupta

...for the Petitioner

Mr. Jayanta Samanta,
Ms. Ashmita Chakraborty

...for the State

1. Heard the learned advocate representing the parties.
2. The writ petitioner's claim for benefit of compassionate appointment was rejected by the authority (The Commissioner, Textile and Sericulture, West Bengal) by an order dated 05.09.2016. The petitioner approached the West Bengal Administrative Tribunal ('S.A.T.' for short) for relief in this regard. O.A. No. 313 of 2018 filed by the writ petitioner was rejected by the S.A.T. under its order dated 23.02.2023, which is the subject matter of the present writ petition.
3. We have earlier granted time for filing an affidavit-in-opposition and seeking instructions.
4. When the matter is taken up today, the learned advocate for the respondents being faced with the P.P.O. dated 21.05.2008 bearing No.9842/FP/D/3052, which was annexed to the Original Application filed by the writ petitioner,

fairly submits that the order of the Commissioner has omitted to take this into consideration.

5. The submissions are apparent from a bare reading of the order of the Commissioner itself.
6. In the circumstances, we are of the view that a rejection of the petitioner's claim by the Commissioner under the order dated 05.09.2016, on a ground that the petitioner was not absorbed and that he was not a member of the permanent establishment is untenable and unsustainable.
7. In view of our finding based on the records and after considering the submission of the parties, we find that pendency of the Original Application would serve no useful purpose as it is for the Commissioner (Respondent No.2) to consider the petitioner's claim having regard to the fact that the petitioner was beneficiary of family pension and without raising an issue regarding the petitioner never being absorbed in Government service.
8. We, therefore, remit to the Respondent No.2 to take decision afresh taking into consideration the family pension payment order, noticed above.
9. To facilitate such consideration, we set aside the earlier order dated 05.09.2016 rejecting the petitioner's claim.

10. Let a final decision be taken by the Respondent No.2 within six weeks from the date of receipt/production of a copy of this order before the Respondent No.2.
11. The Writ Petition is disposed of in these terms.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)