

March 30, 2026
Sl. No.34
Court No.1
s.biswas

WPCT 38 of 2024

Siddhartha Pal and another
vs.
The Union of India and others

Mr. Ujjal Ray

... for the petitioners

Mr. Ashoke Kumar Chakraborty, ASGI

Mr. Tirthapati Acharyya

... for the respondents

Dictated by Sujoy Paul, C.J.

1. The affidavit of service filed on behalf of the petitioners is taken on record.
2. Mr. Ujjal Ray, learned counsel for the petitioners and Mr. Ashoke Kumar Chakraborty, learned Additional Solicitor General for the respondents Union of India, are present. With the consent, the matter is finally heard.
3. The petitioners are aggrieved by order dated 06.09.2023 passed by Central Administrative Tribunal (Tribunal), Kolkata Bench in O.A. No.350/1793/2022

whereby the original application seeking compassionate appointment is dismissed.

4. The admitted facts are that said O.A. was in fact the second visit of the petitioners to the Tribunal. Initially, they approached the Tribunal by filing O.A. 850 of 2022 (Kolkata), which was disposed of by the Tribunal on 24.08.2022. In para 9 of this order, the Tribunal directed the department to take decision on the application for compassionate appointment preferred by the petitioners by passing a reasoned and speaking order “applying rules prevalent as on the date of death of the employee”. In turn, the department passed a speaking order dated 27.09.2022 which became subject matter of challenge in the second round decided by the impugned order dated 06.09.2023.

5. Mr. Ray, learned counsel for the petitioners submits that father of petitioner no.1 died in harness on 05.04.2009. At that point of time the policy issued by DoPT dated 09.10.1998

was prevailing. The petitioner's name was considered on the anvil of subsequent policy dated 20.04.2010. In the light of previous order of the Tribunal which attained finality, the Tribunal was not justified in considering the claim of the petitioner on the anvil of subsequent policy. This point was specifically raised in para 4.5 of the O.A., but Tribunal did not deal with the same.

6. Mr. Chakraborty, learned ASGI supported the impugned order and urged that if petitioner's eligibility is examined on the anvil of his pleading, contention, etc., no fault can be found in the said action.

7. We have heard the parties on this aspect.

No doubt the Tribunal in the first round opined that the petitioner's claim needs to be considered by applying rules prevalent on the date of death of the employee. In the second round, the Tribunal considered the judgment of Supreme Court in ***The Director of Treasuries in Karnataka and another vs. V. Somyashree*** (Civil

Appeal No.5122 of 2021) and opined that petitioner's claim was considered in a fair and objective manner.

8. The Tribunal did not specifically deal with its previous order where it issued a different direction and did not analyze as to which policy shall prevail. In other words, the Tribunal has not examined as to whether petitioner's claim needs to be examined in the teeth of the policy which was prevailing at the time of death of his father or a policy which came into force after his death. For this reason alone, we deem it proper to set aside the impugned order dated 06.09.2023 and restore the original application to its original number and file by requesting the Tribunal to deal with the said aspect and decide the matter afresh in accordance with law. Since it is a matter of compassionate appointment, we request the Tribunal to decide it expeditiously preferably within 2 months from the date of production of the copy of this order.

9. The petition is **disposed of** without expressing any opinion on merits.

(Sujoy Paul, C.J.)

(Partha Sarathi Sen, J.)