

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 4599 of 2025
(CAN 1 of 2025)

Monoranjan Sardar
Vs.
Food Corporation of India & Ors.

For the writ petitioner	:-	Mr. Victor Chatterjee Ms. Shreya Bhattacharjee Mr. Pramitava Nath
For FCI	:-	Mr. Kamal Kumar Chattopadhyay
Heard on	:-	07.04.2026
Judgment on	:-	07.04.2026

Amrita Sinha, J.:-

1. The father of the petitioner was serving in the Food Corporation of India. He died-in-harness in the year 2019. The mother of the petitioner immediately applied for appointment of the petitioner on compassionate ground relying on the scheme for such appointment which was prevailing at that relevant point of time.
2. The prayer for appointment not being considered, he approached this Court by filing the instant writ petition.
3. It has been submitted that the petitioner is suffering from acute penury and the case of the petitioner for compassionate appointment ought to be considered relying on the scheme which

was prevailing on the day of death of the employee and on the date of making the application seeking appointment on compassionate ground.

4. The Divisional Manager of the Food Corporation of India has filed a report wherein certain circulars have been disclosed.
5. Circular No. 5/2003 dated 4th March, 2003 mentions that the existing scheme of appointment of next kin and kith of departmental workers under the above mentioned schemes have been reviewed and it has been decided that henceforth the principle of ceiling limit of five percent of vacancies ear-marked for direct recruitment at the entry level post for appointment on compassionate ground under various labour systems as already applicable in case of the employees of the Corporation will be followed in cases of appointment on compassionate ground in respect of departmental labour system as per the existing schemes.
6. Circular No. 3/2013 dated 9th April, 2013 lays down the procedure for appointment on compassionate ground of the heirs of departmental workers.
7. It mentions that the Board of Directors of Food Corporation of India in its meeting held on 18th March, 2013 has authorised the CMD, FCI to approve such cases of compassionate appointment of the next of kin and kith of the workers who died on work spot irrespective of the ceiling of five percent of total vacancies under the direct recruitment quota subject to the condition that the total

number of cases of compassionate appointment should not be allowed to exceed five percent of the total vacancies on all India basis under the direct recruitment quota.

8. The proposal of the Director (FC-III) vide communication dated 3rd January, 2020 addressed to the Executive Director (IR-L) mentions that the proposal of FCI regarding declaring the Departmental labour as dying cadre has been examined and the same has been accepted by the Hon'ble Minister (CA, F & PD).
9. Further Circular No. 01/2020 dated 8th January, 2020 has been placed wherein it has been mentioned that the Departmental Labour System stands declared as dying cadre and, therefore, all field officers were instructed to ensure that there is no further induction of any worker under this system.
10. The communication of the Assistant General Manager (IR-L) dated 28th September, 2020 addressed to the General Manager (Region) Food Corporation of India has been highlighted wherefrom it appears that request was made to keep on hold the matters relating to compassionate ground appointment of deceased DLS and DPS workers till further instruction issued by the Food Corporation of India Headquarters.
11. The communication of the Assistant General Manager (IR-L) dated 28th July, 2021 addressed to the Executive Director (Zone), Food Corporation of India mentions that the compassionate ground appointment in respect of DPS labour may be considered as per the

existing policy and the appointment on compassionate ground in respect of DLS labour should be continued to be kept on hold.

12. According to the FCI, the father of the petitioner was a DLS labour and, accordingly, his application seeking compassionate appointment has been kept on hold.
13. It has been submitted that compassionate appointment cannot be claimed as a matter of right. Considerable time has elapsed from the date of death of the father of the petitioner and at such delayed point of time the prayer of the petitioner seeking compassionate appointment cannot be entertained.
14. Learned advocate representing FCI has placed reliance on the judgment delivered by the Hon'ble High Court of Judicature at Bombay, Nagpur Bench in PIL No. 84 of 2014 dated 20th November, 2015 wherein the Hon'ble Court passed order, inter alia, directing the Government of India to take a decision regarding abolition of departmental labourers in a phased manner or absorbing their services in other establishments as recommended by the High- Level Committee.
15. The respondents pray for dismissal of the writ petition.
16. Upon hearing the submissions made on behalf of both the parties and on perusal of the materials placed before this Court, it appears that FCI is placing heavy reliance on the judgment delivered by the Hon'ble Bombay High Court in the Public Interest Litigation.

17. The Public Interest Litigation in which the judgment was delivered was in respect of a news item published in the daily newspaper reporting that in the depots run by the Food Corporation of India, some of the departmental loaders were earning as much as Rs. 4,00,000/- per month.
18. The news item reflected abuse of government funds, inefficiency and reluctance on the part of the authorities to act sternly against various persons indulged in siphoning of government funds.
19. It was reiterated that some of the loaders clandestinely engaged services of other persons by paying a paltry amount under the incentive scheme when they were getting huge amount of money from the Food Corporation of India.
20. It was on this report that the Court passed a slew of directions. The Public Interest Litigation was not relating to compassionate appointment at all.
21. The scheme for compassionate appointment was prevailing on the day of death of the father of the petitioner. The same was also very much available when the application seeking appointment on compassionate ground was made.
22. The application was made with promptitude and it is only because the Food Corporation of India kept the same pending for a considerable period of time that the petitioner was compelled to knock the doors of justice by filing the instant writ petition.

23. The submission of the respondent authority that the writ petition is liable to be dismissed on the ground of delay cannot be accepted as there was no delay on the part of the petitioner in applying for appointment on compassionate ground. It is the authority who was unable to maintain and manage its internal affairs. When the report of misuse of government funds came to light, then directions were passed in the Public Interest Litigation.
24. There is no order(s) from any competent forum not to process the application(s) made seeking appointment on compassionate ground. For making its own house in order, there is absolutely no requirement of the authority not to process the application(s) seeking appointment on compassionate ground by the heirs of the deceased who may be in acute financial crisis on the death of the sole bread winner.
25. Such application(s) ought to have been considered in terms of the prevailing scheme(s). It is not necessary that the appointment under the died-in-harness category has to be given only in respect of one department or in a particular cadre. The applicant cannot choose the cadre where appointment can be given on compassionate ground. The same is the discretion of the employer.
26. The cadre where illegal activities were noticed by the authority may have been declared to be a dying cadre and appointment may not be given in the said cadre; but the same does not imply that appointment on compassionate ground cannot be considered at all.

27. As the scheme in question is still prevailing, the authority ought to consider the application(s) made by the heirs of the deceased for being appointed in any other cadre or post.
28. Delaying consideration of the application on the ground that appointment on compassionate ground has been kept on hold and, thereafter, praying for dismissal of the writ petition on the ground of delay cannot be appreciated. The authority cannot blow hot and cold at the same time.
29. The authority ought to take a decision whether to allow or to reject the application(s) relying on the prevailing scheme for providing appointment on compassionate ground. Such application cannot be kept pending for an indefinite period of time. Till a decision is taken and communicated to the applicant, it is not possible for the applicant to take the next course of action.
30. Learned advocate for the respondents sought to rely upon decisions on the propositions that (i) appointment on compassionate ground cannot be claimed as a matter of right and (ii) delay in making application is fatal for consideration of application seeking compassionate appointment.
31. As both the aforesaid propositions are so very well settled, the Court did not feel the requirement of referring to any particular judgment in this regard.
32. In view of the above, the instant writ petition stands disposed of by directing the General Manager (Region), Food Corporation of India

being the respondent no. 4 herein to take steps to process the application seeking compassionate appointment of the petitioner and forward the same to the competent authority for taking a decision in the matter in accordance with the scheme which was prevailing on the day the father of the petitioner expired and the day on which the application seeking compassionate appointment was made by the petitioner.

33. A decision shall be taken in this regard at the earliest but positively within a period of ten weeks from the date of communication of this order.
34. A reasoned order shall be passed and communicated to the petitioner immediately thereafter. If the prayer of the petitioner is accepted, then necessary consequential steps shall be taken by the authority without any further delay.
35. The writ petition and the connected application being CAN 1 of 2025 stands disposed of.
36. Parties to act on the basis of the server copy of this judgment duly downloaded from the official *website* of this Court.
37. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)