

Form J(2).  
Item No. 02  
Court No. 1

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

**Present:**  
**THE HON'BLE CHIEF JUSTICE SUJOY PAUL  
AND  
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

**WPCT 188 of 2024**

**Smt. Sita Devi & Anr.  
Vs.  
Union of India & Ors.**

**Appearance:-**

**For the Petitioners** : Mr. Ujjal Ray

**For the Respondent** : Mr. Nilanjan Bhattacharya  
Ms. Sayani Roy Chowdhury.

**Heard on** : 11.03.2026

**Delivered on** : 11.03.2026

**Judgment (Oral)**

**Dictated by SUJOY PAUL, CJ.:-**

1. This petition filed under Article 226/227 of the Constitution of India impugnes the order dated 25.04.2024 passed in OA 350/00825/2023 passed by the Central Administrative

Tribunal (Tribunal), Kolkata Bench whereby the challenge to the speaking order dated 4.3.2019 rejecting the claim of compassionate appointment was upheld by the Tribunal without entering into the validity of the said order.

2. The principal argument of the learned counsel for the petitioners is that the petitioners filed a number of original applications before the Tribunal to decide the claim of compassionate appointment. On several occasions the Tribunal directed the department to pass a speaking order. Lastly, in OA 350/01081/2017 the Tribunal by order dated 13.02.2019 directed the respondent no.3 therein to pass a fresh speaking order. In obedience of that, the speaking order dated 4.3.2019 was passed, which became the subject matter of challenge in the instant OA.
3. Learned counsel for the petitioners advanced singular submission by contending that when validity of a speaking order was challenged, the duty on the part of the Tribunal was to decide it on merits. The Tribunal on the one hand opined that delay has occurred in the instant case mainly due to protracted litigation arising out of repeated rejection by the respondents for appointment on compassionate grounds and on

the other hand opined that since the Department has repeatedly rejected the claim of the petitioner and not willing to appoint him on compassionate ground, no fruitful purpose would be served in directing the respondents in the instant matter.

4. Learned counsel for the Department supported the impugned order.
5. We have heard the parties at length.
6. A plain reading of the operative portion of the impugned order shows that the learned Tribunal in paragraph 7 has referred the ground taken by the Senior Divisional Personnel Officer while rejecting the claim by speaking order dated 4.3.2019. However, the Tribunal has not chosen to give any finding as to whether such reason is justifiable or not. We find substance in the argument of the learned counsel for the petitioners that if speaking order dated 4.3.2019 was impugned in the OA, the Tribunal was under an obligation to examine its validity on permissible grounds. Accordingly, since the Tribunal has not undertaken that exercise, the impugned order cannot sustain judicial scrutiny. Resultantly, the order dated 25.4.2024 passed in OA 350/00825/2023 is set aside. The said OA is

restored to its original file and number and the Tribunal is requested to decide the said OA in accordance with law expeditiously, preferably within three months from the date of production of copy of this order.

7. It is made clear that this Court has not expressed any opinion on merits of the case.
8. The petition is disposed of.
9. Urgent Photostat certified copy of this order, if applied for, be delivered to the learned counsel for the parties, upon compliance of all formalities.

**(SUJOY PAUL, CJ.)**

I agree.

**(PARTHA SARATHI SEN, J.)**

RP(AR.CT.)