

WPA 21367 of 2024

Sikha Kayal & Anr.
Vs.
The State of W. B. & Ors.

Mr. Dilip Kumar Maity ...for the petitioners.

Ms. Sabnam De Bardhan
Mr. Nikhil Gupta ...for the State.

Report submitted by the State is taken on record.

The 1st petitioner is the wife and the 2nd petitioner is the son of Jagadish Chandra Kayal who was a Gram Panchayat Karmee and died in harness on 23rd May, 2007.

Learned counsel for the petitioners submits that the 1st petitioner applied for compassionate appointment after demise of her husband and was verbally requested by the authority to replace her prayer by a prayer for appointment of the 2nd petitioner after he attained majority since the 1st petitioner was less qualified. The 1st petitioner acceded to such request and after the 2nd petitioner attained majority he applied for compassionate appointment on 29th June, 2012. His request was forwarded by the Panchayat and Rural Development, West Bengal to the Joint Secretary to the Government of West Bengal, department of Panchayat and Rural Development, West Bengal recommending his appointment.

By a letter issued on 28th April, 2023, the Assistant Secretary, Government of West Bengal conveyed the department's inability to accede to the proposal on the ground that the application was submitted more than 5 years after demise of the employee. The petitioners seek compassionate consideration of the application filed by the 2nd petitioner.

The application filed by the 2nd petitioner has been turned down by the authority in terms of the notification of the Labour Department, Government of West Bengal dated 1st March, 2016 which enumerates that an application for compassionate appointment needs to be submitted ordinarily within 2 years and in exceptional cases within 5 years from the date of death of the employee.

It appears that the initial application filed by the 1st petitioner within the said period of time has not been considered by the authority till date. The subsequent application was filed by the 2nd petitioner after he attained majority. Since no compassionate appointment was granted to the family members of the deceased despite the fact that the 1st application was made immediately after the death of the employee, the application made by the 2nd petitioner upon attaining majority ought to have been considered by the authority sympathetically and not turned down on mere technical grounds. In view of the fact that the 2nd petitioner being the son of the deceased employee submitted the application seeking compassionate

appointment after obtaining majority, the concerned authority, Joint Secretary to the Government of West Bengal being the 4th respondent herein, should revisit the issue and consider appointment of the 2nd petitioner on compassionate ground.

Accordingly, the writ petition is allowed.

The order impugned dated 28th April, 2023 communicated by the Assistant Secretary to the Government of West Bengal is set aside.

The 4th respondent is directed to revisit the issue and consider granting compassionate appointment to the 2nd petitioner upon exhausting all formalities. The entire exercise shall be completed within two months from the date of communication of this order.

It is made clear that this Court has not gone into the merits of the case and the concerned authority shall be at liberty to decide the issue independently in accordance with law.

The writ petition is disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)