

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

Present :- Hon'ble Justice Amrita Sinha

WPA No. 28659 of 2023

**Kumaresh Naskar & Anr.
Vs.
The State of West Bengal & Ors.**

For the writ petitioners	:-	Mr. Ratul Biswas, Adv. Mr. Haridas Das, Adv.
Heard on	:-	06.04.2026
Judgment on	:-	06.04.2026

Amrita Sinha, J.:-

1. The first petitioner was employed in the judgeship of Howrah. Due to his ill health, he applied for premature retirement on the ground of medical incapacitation. The prayer of the petitioners for premature retirement was accepted; and on consideration of the report of the medical board, the first petitioner stood retired prematurely from service on November 1, 2021.
2. An application was made by the second petitioner, being the son of the first petitioner, seeking compassionate appointment relying on the West Bengal Scheme for Compassionate Appointment, 2013.
3. Under the said Scheme, if a Government employee is disabled permanently or otherwise incapacitated rendering him unfit to

continue in service prematurely on being declared permanently incapacitated by a Medical Board formed by the Government, there is a provision for compassionate appointment.

4. As the first petitioner was declared permanently incapacitated by the Board, accordingly, prayer has been made for providing appointment to the second petitioner.
5. The eligibility clause for being considered for appointment in case of premature retirement lays down that the concerned employee had to have at least two years of service left to reach the normal age of superannuation. The normal age of superannuation of the first petitioner was July 31, 2023.
6. As the first petitioner was left with less than two years of service tenure on the date he was declared permanently incapacitated, accordingly, his prayer for compassionate appointment of the second petitioner has been rejected. The petitioners are aggrieved by the same.
7. It has been submitted that the date of making the application seeking voluntary retirement on account of medical incapacitation was made long before two years of his superannuation. It is contended that the first petitioner did not have any scope to foresee as to when the Medical Board would be constituted.
8. The date of application of the first petitioner seeking premature retirement ought to be the date which has to be taken into

consideration for applying the said scheme for consideration of the prayer for compassionate appointment.

9. The Court is unable to accept such contention of the petitioners.
10. The date of application seeking voluntary retirement is not the reckonable date in terms of the Scheme. The date on which the employee is declared medically incapacitated is the actual date which is taken into consideration to ascertain as to whether two years of service period was left for the employee prior to superannuation.
11. In the instant case, even though the application was made more than two years before retirement, but the employee actually retired prematurely only on and from November 1, 2021. Prior to that the employee received his regular pay.
12. As the first petitioner, admittedly, had less than two years of service tenure left on the date he was declared prematurely retired on medical ground, accordingly, his prayer for providing compassionate appointment to his son cannot be accepted. Hence, no relief can be given to the petitioners in the instant case.
13. The writ petition fails and is hereby dismissed.
14. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
15. 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.)

