

16.06.2026
Sl. No.27
Ct. No.6
gd

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**WPA/698/2026
Rafidul ali
versus
The State of West Bengal and ors.**

Mr. Bikash Singha
...for the Petitioner.

Mr. Kunaljit Bhattacharjee, Id. AGP
Ms. Radhika Agarwal
...for the State.

1. By the present writ petition the petitioner seeks for setting aside and/or quashing of the letter dated 16th December, 2025 issued by Assistant Secretary, Government of West Bengal, Panchayats and Rural Development Department, respondent no.2 rejecting the application of the petitioner seeking for appointment on compassionate ground.
2. The petitioner contends that the petitioner's father, late Jaher Ali was a Gram Panchayat Karmee of Dhalpal-II Gram Panchayat under Tufanganj-I Development Block, District-Cooch Behar. The petitioner's father died-in-harness on 6th October, 2016 leaving behind his wife, Chhakijan Bibi and his three sons, namely, Chhafikul Ali, Mafidul Ali and Rafidul Ali as his only legal heirs. On 5th January, 2017 the petitioner, after the demise of his father, submitted an application with necessary

papers and documents before respondent no.10, Block Development Officer, Tufanganj-I Development Block for his appointment on compassionate ground. The application of the petitioner seeking appointment on compassionate ground was forwarded to the District Panchayat and Rural Development Officer on 11th May, 2017. The District Panchayat and Rural Development Officer on 15th May, 2017 sent the proposal for appointment of the petitioner on compassionate ground to the Director, Panchayat and Rural Development, Government of West Bengal. By letter dated 27th December, 2019 the Deputy Director, Panchayat and Rural Development, West Bengal returned the proposal with a request to resubmit along with the documents, namely, (1) revised three-men enquiry committee report in original; (2) attested copy of PPO and proof of GISS receipt; and (3) check memo with signature and parity to be maintained regarding financial dues/receipt as per three-men enquiry committee report. On 17th May, 2022 the petitioner submitted the application in proper format which was forwarded to the concerned authority. By letter dated 16th December, 2025 the prayer of the petitioner was rejected by the authority concerned on the ground of delay in submission of the prescribed format in annexure-A. Being aggrieved by and dissatisfied with the action of the authority

concerned, the petitioner has preferred the present writ petition challenging the impugned order.

3. Mr. Bikash Singha, learned advocate appearing for the petitioner submits that the petitioner submitted his application in plain paper seeking for appointment on compassionate ground within three months of the date of death of his father. Subsequent thereto, the petitioner has submitted his application in proper format on 17th May, 2022. The prayer of the petitioner seeking appointment on compassionate ground was rejected on the sole ground that the format has been submitted after five years and seven months. However, the authority concerned failed to take into consideration that the application seeking for appointment on compassionate ground was submitted by the petitioner within a period of three months. Therefore, the findings made in the aforesaid letter is not sustainable and is liable to be set aside. To buttress his contention he relies on the decision of this court passed in ***Nilay Kumar Samanta v. The State of West Bengal & Ors.*** (Re: WPA 21229 of 2023) and ***Binoy Sardar v. State of West Bengal & Ors.*** (Re: WPA 20858 of 2024).

5. On the contrary, Mr. Kunaljit Bhattacharjee, learned Additional Government Pleader appearing for the State respondents submits that as per Clause 10(a) of Notification No.251-Emp dated 3rd

December, 2013 the application seeking for appointment on compassionate ground is to be submitted within two years from the date of death or retirement on permanent incapacitation. Clause 10(b) requires that such application is to be submitted in prescribed format as provided in annexures A and B. Records clearly reveal that such application in prescribed format has been submitted by the petitioner after expiry of five years i.e. on 17th May, 2022. On such ground the authority concerned has rejected the prayer of the petitioner seeking for appointment on compassionate ground and, therefore, it does not call for interference.

4. Upon hearing the learned advocates for respective parties, the only issue which falls for consideration is whether the impugned letter dated 16th December, 2025 issued by Assistant Secretary, Government of West Bengal, Panchayats and Rural Development Department, respondent no.2 rejecting the application of the petitioner for appointment on compassionate ground is sustainable or not.

5. It is not in dispute that upon demise of his father on 6th October, 2016 the petitioner submitted an application before respondent no.10, Block Development Officer, Tufanganj-I Development Block seeking for appointment on compassionate ground on 5th January, 2017. The application in

prescribed format has been submitted by the petitioner 17th May, 2022. Although it has been strenuously argued on behalf of the State that the application in prescribed format ought to have been submitted within a period of two years, however, one cannot be oblivious to the fact that the application in plain paper was submitted within a period of two years i.e. 5th January, 2017. There is also no iota of material on record to suggest that upon such application been made by the petitioner in plain paper, the authority concerned intimated him to submit an application in proper format.

6. In considering an application for appointment on compassionate ground, what is important is the substance and not the form. The scheme is meant to be a beneficial scheme aimed at helping those who need assistance due to untimely death of the employee. Reliance may be placed on the decision of Hon'ble Supreme Court passed in ***Shreejith L. versus Deputy Director (Education) Kerala & 7 Ors. reported in (2012) 7 SCC 248*** wherein the Hon'ble Court observed as follows:

“24. We regret our inability to accept that submission. The Manager of the school had on receipt of the application from Respondent 4 not only acknowledged the request for appointment but also recognised that Respondent 4 possessed the requisite qualification for appointment as a Hindi teacher. The request was not, however, granted as no vacancy in the cadre was available in the school at that time. What is noteworthy is that the Manager did not reject the application on the ground that the same was not in the prescribed format or that the application was deficient in disclosing information that was essential for

consideration of the prayer for a compassionate appointment. If the authority concerned before whom the application was moved and who was supposed to consider the request, did not find the format of the application to be a disabling factor for a proper consideration thereof, it could not be set up as a ground for rejection of the prayer, by the beneficiary of the appointment made in derogation of the rights of Respondent 4. At any rate, what was important was the substance of the application and not the form. If the application in substance conveyed the request for a compassionate appointment and provided the information which the Manager required for considering the request, the very fact that the information was not in a given format would not have been a good reason to turn down the request. We need to remind ourselves that the scheme is meant to be a beneficial scheme aimed at helping those in need of assistance on account of an untimely demise in the family. Inasmuch as the Assistant Educational Officer and even the High Court found Respondent 4 to be eligible for appointment and directed the Manager to make such an appointment, they committed no error to warrant our interference under Article 136 of the Constitution. The civil appeal is, therefore, liable to be dismissed.

x x x

38. Having said that, we have no manner of doubt that in case an application is made by the legal heirs of a deceased employee claiming the benefit of the scheme for compassionate appointment, the deficiencies and defects, if any, in the said application ought to be pointed out to the person concerned to enable him to remove the said within a reasonable time. But if the defects are not removed within the time granted, an adverse inference could be drawn against the person in default. On the contrary, where an application is filed, entertained and eventually declined for a reason other than the form in which the said ought to have been filed, the rejection cannot be supported before the higher authority or in the court on the ground that application non est as the same was not in the prescribed form. The application for appointment filed on behalf of the respondent could not therefore have been rejected on the ground that the same was not in the prescribed form.”

7. Bearing in mind the scheme being a beneficial one and the observation of Hon’ble Supreme Court as above, the rejection of the application of the petitioner seeking appointment on compassionate

ground by respondent no.2 on the ground that the prescribed format has been submitted after 5 years is not sustainable in law.

8. Accordingly, letter dated 16th December, 2025 of the respondent no.2 is set aside.

9. Consequently, respondent no.2, Assistant Secretary to the Government of West Bengal, Panchayats and Rural Development Department is directed to reconsider the application of the petitioner seeking appointment on compassionate ground in accordance with law within a period of four weeks from the date of communication of this order.

10. Learned advocate for the petitioner is directed to communicate this order to respondent no.2, Assistant Secretary to the Government of West Bengal, Panchayats and Rural Development Department, for necessary compliance.

11. With the aforesaid directions, the writ petition being **WPA 698 of 2026** stands disposed of.

12. Since no affidavits have been called for, the allegation made in the writ petition is deemed to be not admitted.

13. Interim order, if any, stands vacated.

14. All connected applications, if any, stand disposed of.

15. There shall be no order as to costs.

16. All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

17.Urgent Photostat certified copy of the order, if applied for, be given to the parties on compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)