
(2013) 03 CAL CK 0019
In the Calcutta High Court
Case No : Writ Petition No. 6641 (W) of 2013

Anupam Saha Ray

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 13-03-2013

Acts Referred:

Citation : (2013) 4 WBLR 911

Hon'ble Judges : Debasish Kar Gupta, J

Bench : Single Bench

Advocate : Ekramul Bari, for the Appellant; Paromita Pal for the State, for the Respondent

Final Decision : Disposed Off

Judgement

Debasish Kar Gupta, J.—This writ application is directed against an order passed by the respondent No. 3 under his memo No. 2989/1(4) dated July 19, 2012. By virtue of the impugned order the prayer of the petitioner for appointment on compassionate ground due to the sudden death of his father was rejected. The father of the petitioner was an Assistant Teacher of Union Academy Kalchini High School, District - Jalpaiguri. He died in harness on March 14, 2007. The mother of the petitioner viz. Rita Saha Roy submitted an application dated May 22, 2007 for her appointment on compassionate ground.

2. During the pendency of the above application the petitioner submitted further application for consideration of his name for appointment on compassionate ground after the mother had relinquished her claim for such appointment on compassionate ground on December 21, 2010.

3. The mother of the petitioner and the petitioner filed an application under Article 226 of the Constitution of India in the matter of Rita Saha Roy v. State of West Bengal [In Re: W.P. No. 9532 (W) of 2011] and the same was disposed of on February 15, 2012 with a direction upon the respondent authority to consider the claim of the petitioner in accordance with law prevailing at the material point

of time.

4. In compliance of the above order the impugned order together with an order dated April 12, 2011 was served upon the petitioner by the respondent No. 3. It is revealed from the impugned order that the respondent No. 3 purportedly passed the first order dated April 12, 2011 rejecting the claim of the petitioner as also that of his mother on two following grounds:--

(i) The mother of the petitioner was over aged on the date of the death of the father of the petitioner;

(ii) The petitioner No. 2 did not submit his application within the time limit prescribed in G.O. No. 697-ES/S/1S-18/08 dated July 09, 2009, i.e. within two years from the date of death of the father of the petitioner.

5. So far as the claim of the mother of the petitioner is concerned, I find that there is no scope for consideration of that claim because the mother relinquished her claim in favour of her son. So far as the second ground is concerned, the respondent authority took into consideration the Government Order which was issued on July 09, 2009. The above order had no retrospective effect. The above order was issued long after the death of the father of the petitioner. Therefore, the above Government order had no manner of application in this case. The second ground for rejection of the claim of the petitioner cannot be sustained in law for another reason. A Division Bench of this Court delivered a judgment in the matter of MAT 1720 of 2012 on December 18, 2012 observing as follows:-

There is no doubt that the widow of the deceased teacher made a claim for appointment of the appellant herein on compassionate ground although at the relevant time the said appellant did not attain the majority.

We are of the opinion that upon considering the financial condition of the family of the deceased teacher it was the duty of the respondent-Council to offer an employment to the widow concerned without any further delay specially when the widow was major and submitted an application claiming employment on compassionate ground for a family member of the deceased teacher.

The identical issues were considered by this Court in the case of Syed Iftikar Ali Vs. State of West Bengal,

6. In view of the above decision the claim of the petitioner cannot be rejected on the ground of delay in submitting the application. The claim for appointment on compassionate ground continued from the date of submission of the application by the mother of the petitioner. The above application was filed in time. The application of the petitioner was filed after the mother had relinquished her claim in favour of the petitioner.

7. In view of the above, the impugned order as also the order dated April 12, 2011 are quashed and set aside.

8. I direct the respondent No. 3 to take necessary steps for appointment to the

petitioner on compassionate ground within a period of two months from date provided he is otherwise eligible for such appointment.

9. This writ application is disposed of. There will be, however, no order as to costs.