
(2018) 01 CAL CK 0163

In the Calcutta High Court

Case No : 3359 (W) of 2016?With?C A N 11949 of 2016

Babuya Chakraborty

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 25-01-2018

Acts Referred:

Citation : (2018) 01 CAL CK 0163

Hon'ble Judges : Tapabrata Chakraborty

Bench : Single Bench

Advocate : Sibaji kumar Das

Judgement

1. Affidavit of service filed by the petitioner be kept on record. Upon hearing Mr. Das, learned advocate appearing for the petitioner and upon considering the materials on record, I am satisfied with the explanation given for the absence of the learned advocate of the petitioner before this Court on 5th December, 2016, when the writ petition was dismissed for default. Accordingly, the order dated 5th December, 2016 is recalled, the writ petition is restored to its original file and number and the application being CAN 11949 of 2016 is allowed. After allowing the application for restoration, this Court invited Mr. Das, to advance his arguments on the merits of the writ petition.

2. Mr. Das submits that the petitioner's prayer for compassionate appointment has been set aside by a cryptic order dated 9th October, 2015 passed by the respondent No. 4. In the said order the date of birth of the petitioner has been erroneously recorded as 12th March, 1981 though he was born on 23rd January, 1978. The petitioner's mother submitted an application for compassionate appointment within two years from the date of death of the petitioner's father but the same was not considered and the retiral dues were also not disbursed. Aggrieved thereby, the petitioner's mother was constrained to approach this Court by filing a writ petition being W.P. 17773(W) of 2009 and only after the same was disposed of by an order dated 10th March, 2011, the benefits of family pension were extended to the petitioner's mother, however, the authorities did

not consider the application subsequently submitted by the petitioner's mother, after the petitioner attained majority, with a prayer to grant compassionate appointment to the petitioner as the benefits of family pension were meagre and on the basis of the same, it was impossible for the family to survive. As the said representation was not considered the petitioner was constrained to approach this Court by filing another writ petition being W.P. 239(W) of 2014. By an order dated 21st July, 2015 the Court directed the respondent No. 4 to consider the petitioner's claim and pursuant to the said order the order impugned in the present writ petition has been passed. The order impugned does not reveal any independent application of mind and the same has been passed without taking into consideration the fact that the delay which has occasioned is attributable to the respondents and for such delay the petitioner cannot suffer.

3. The undisputed facts are that the petitioner's father died-in-harness while working in a group "D" post on 21st December, 1978. The petitioner's mother submitted an application praying for her compassionate appointment on 1st June, 1981. At that juncture the petitioner was a minor. After the petitioner attained majority, her mother submitted a representation on 7th April, 1999 praying for grant of compassionate appointment in favour of her son, being the petitioner herein.

4. Appointment on compassionate ground cannot be claimed as a matter of right. The object of compassionate appointment is to mitigate hardships of the deceased family due to sudden loss of the bread earner. The death of the petitioner's father was on 21st December, 1978. Question of consideration of a claim for compassionate appointment, after the lapse of a period of more than 30 years from the date of such death, does not occasion.

5. A writ Court ought not to transpose itself as an appellate authority when a particular authority has performed its obligation to abide by the specific directions given by this Court and has rendered a decision in the matter supported with cogent reasons.

6. Applying such proposition of law to the facts of this case, I am of the opinion that there is no infirmity in the order impugned.

7. Accordingly, this Court is unable to grant the relief, as prayed for by the petitioner and the writ petition is, accordingly, dismissed.

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

9. Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties upon compliance of all necessary formalities.