
(2018) 05 CAL CK 0073
In the Calcutta High Court
Case No : Writ Petition15901 (W) of 2017

Nureja Khatun

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 01-05-2018

Acts Referred:

Citation : (2018) 05 CAL CK 0073

Hon'ble Judges : SAMAPTI CHATTERJEE, J

Bench : Single Bench

Advocate : P.S. Deb Barman, Srikanta Dutta, Chaitali Bhattacharya, Tuli Sinha, Ratul Biswas, Subir Sanyal, Ratul Biswas, Kaushik Chowdhury

Final Decision : Disposed Of

Judgement

The petitioner has filed the present writ petition assailing the impugned order dated 14th September, 2016 issued by the Chairman, Murshidabad

District Primary School Council thereby communicating the petitioner that the Commissioner of School Education has been pleased to refuse the

approval of the Council in favour of the petitioner for giving appointment on compassionate ground. Mr. P.S. Deb Barman, learned advocate for the

petitioner submits that the petitioner's father died in harness on 6th April, 2007 when he was working as primary teacher under Raghunathpur

Asof Molla Primary School under Suti-I Circle, Murshidabad. On 17th March, 2009 the petitioner's mother made an application before the

Chairman, Murshidabad District Primary School Council for giving appointment to the petitioner under died-in-harness category. Since nothing was

done, therefore, the petitioner's mother moved a writ petition being W.P. 5957(W) of 2011 sometimes in 2011.

That writ petition was disposed of on 24th July, 2014 by Honâ??ble Justice Biswanath Somadder thereby directing the respondent authority to

consider the petitionerâ??s application for compassionate appointment once again and to take a fresh decision. Accordingly, the Chairman,

Murshidabad District Primary School Council considered the petitionerâ??s case and sent the proposal to the Commissioner of School Education,

West Bengal on 26th November, 2014 for necessary approval for giving appointment to the petitioner on compassionate ground. Unfortunately, by the

impugned order dated 14th September, 2016 vide memo no. 1380, the Chairman, Murshidabad District Primary School Council informed the

petitionerâ??s mother that the Commissioner of School Education, West Bengal rejected the claim of the petitioner for appointment on

compassionate ground on the issue that the petitioner failed to obtain the requisite academic qualification within two years from the date of death of

her father. Hence, the present writ petition.

Mr. Deb Barman, submits that the petitioner acquired the requisite qualification sometimes in January 2009 which is within the stipulated period as

prescribed under the Rules. Mr. Deb Barman further emphasises that the Madhyamik Examination for the year 2008 was started on and from 10th

January, 2009 and the last date of examination was 22nd January, 2009. Mr. Deb Barman further submits that since the last date of examination was

22nd January, 2009 which is very much within two years as prescribed by the Rule, therefore, the petitioner is entitled to get appointment on

compassionate ground considering the facts that the petitioner acquired requisite qualification within the stipulated period.

In conclusion, Mr. Deb Barman prays that the writ petition should be allowed thereby quashing the memo being memo no. 839-SC/P/DH/11/P-

25/2016 dated 12th August, 2016 issued by the Commissioner of School Education, West Bengal to the Chairman, Murshidabad District Primary

School Council thereby refusing to grant approval to the proposal forwarded by the Murshidabad District Primary School Council for giving

appointment to the petitioner on compassionate ground. Mr. Deb Barman also prays for quashing of the memo no. 1380 dated 14th September, 2016

issued by the Chairman, Murshidabad District Primary School Council thereby informing the petitioner regarding rejection for granting approval by the

Commissioner of School Education, West Bengal.

Ms. Chaitali Bhattacharya, learned advocate appearing for the State respondents, submits that though the last date of Madhyamik Examination for the

year 2008 was held on 22nd January, 2009 but the result was published on 17th April, 2009 which is admittedly 11 days after two years of the date of

death of the petitioner's father as prescribed by the Rules. Mr. Ratul Biswas, learned advocate appearing for the Murshidabad District Primary

School Council submits that admittedly the last date of Madhyamik Examination was on 22nd January, 2009 where the petitioner appeared but the

result was published on 17th April, 2009. In support of his contention, Mr. Biswas has handed up the Madhyamik Examination schedule of 2008 and

also the letter dated 19th February, 2018 issued by the President of the West Bengal Council of Rabindra Open Schooling wherefrom it reveals that

the result of the Madhyamik Examination for the year 2008 was published on 17th April, 2009.

Considering the above submissions and after perusing the records, I find that the last date of Madhyamik Examination was on 22nd January, 2009

which is admittedly within two years from the date of death of the petitioner's father though I cannot ignore the fact that the result of that

examination was published on 17th April, 2009 which is after 11 days from the prescribed two years.

Therefore, in my considered view, the Chairman, Murshidabad District Primary School Council is not wrong to recommend the petitioner's

candidature for giving appointment on compassionate ground thereby forwarding the same to the Commissioner of School Education, West Bengal for

granting approval.

On the above discussion, in my considered view, the impugned refusal order dated 12th August, 2016 by the Commissioner of School Education, West

Bengal for granting approval of the Council's proposal for giving appointment to the petitioner on compassionate ground cannot be sustained in the

eye of law as well as the communication of the refusal by the Chairman, Murshidabad District Primary School Council dated 14th September, 2016 to

the petitioner also cannot be sustained. Accordingly, both the impugned orders dated 12th August, 2016 and 14th September, 2016 are hereby quashed

and set aside.

Further, I direct the respondent no.2, the Commissioner of School Education, West Bengal to take steps to grant approval to the proposal already

forwarded by the Chairman, Murshidabad District Primary School Council for giving appointment to the petitioner on compassionate ground within a

period of four weeks from the date of communication of this order and thereafter forward the same to the Chairman, Murshidabad District Primary

School Council within one week. The Chairman, Murshidabad District Primary School Council after receiving that order of approval will take steps to

give appointment to the petitioner on compassionate ground without any further delay but positively within a period of four weeks.

Let a copy of the Madhyamik Examination schedule of 2008 and also the letter dated 19th February, 2018 and the documents filed by Mr. Biswas be

kept on record. With this direction, the writ petition is disposed of. However, there will be no order as to costs. Urgent certified photostat copy of this

order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.