

(2012) 04 CAL CK 0056
In the Calcutta High Court
Case No : W.P.S.T. 86 of 2012

Samir Hazra

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 04-04-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 135 FLR 341

Hon'ble Judges : Subhro Kamal Mukherjee, J; Nishita Mhatre, J

Bench : Division Bench

Advocate : Subhayu Banerjee and Mr. Arindam Das, for the Appellant; Amitesh Banerjee and Mr. Prabir Kumar Ray, for the Respondent

Final Decision : Dismissed

Judgement

1. This is an application under Article 226 of the Constitution of India challenging the judgment and order dated November 25, 2009 passed by the West Bengal Administrative Tribunal in Original Application No. 12626 of 2007. The father of the petitioner was a group-D employee of Berhampore Collectorate in the district of Murshidabad. He died in harness on July 1, 2003. He left behind him his widow, four sons, including the petitioner, and one married daughter.
2. The applicant made a representation for his appointment on compassionate ground. His brothers and the married sister, also, filed an affidavit in support of the claim of the writ petitioner expressing their no objection to the appointment of the writ petitioner.
3. The matter was kept pending for a considerable period of time, which compelled the writ petitioner to approach the tribunal.
4. The tribunal directed the authorities to dispose of the prayer of the writ petitioner for compassionate appointment.
5. The authority concerned, by order dated July 13, 2006, rejected the claim of

the writ petitioner for appointment on compassionate ground.

6. The tribunal, this time, by the order impugned, also concurred with the finding of the said authority and rejected the claim of the writ petitioner for appointment on compassionate ground.

7. Although, we are of the opinion that the writ petitioner has failed to make out any case for compassionate appointment, but we record that we are not happy with the finding of the tribunal that a married son could not be a member of the family of the deceased. This is a misconception. The tribunal went wrong in proceeding on the basis that since the writ petitioner was married, he could not be considered to be a member of the family.

8. Nevertheless, the writ petitioner could not make out any case for granting relief to him inasmuch the mother of the writ petitioner is in government service, three of his brothers are working in private firms and one brother is a temporary employee of the Berhampore Collectorate.

9. The compassionate appointment is not a matter of course nor it is a matter of inheritance. The scheme of compassionate appointment is formulated to give immediate relief to the family, which is in distress. Moreover, the prayer for compassionate appointment was rejected on July 13, 2006 and the writ petitioner filed the original application on December 19, 2007 without explaining the reasons for late filing of the application. At the same time, the order impugned in this writ application was passed on November 25, 2009 and the present writ application was filed only on March 16, 2012. There is also no explanation as to why he has come to this court so late.

10. It seems that the writ petitioner is not serious about his claim for appointment on compassionate ground. We, also, cannot say that the family is in distress and, as such, it should be protected by giving appointment to the writ petitioner on compassionate ground.

11. The writ application, therefore, stands dismissed without, however, any order as to costs. Xerox certified copy of this order, if applied for, will be made available to the applicant within a week from the date of putting in the requisites.