
(2007) 06 CAL CK 0010
In the Calcutta High Court
Case No : M.A.T. No. 1083 of 2006

State of W.B. and Others

APPELLANT

Vs

Raghunath Mondal and Another

RESPONDENT

Date of Decision : 21-06-2007

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 2 CHN 1050

Hon'ble Judges : Rudrendra Nath Banerjee, J; Bhaskar Bhattacharya, J

Bench : Division Bench

Advocate : Goutam Som, Asis Das and Sibani Bhagat, for the Appellant; C.R. Chakraborty and Rina Banerjee, for the Respondent

Final Decision : Dismissed

Judgement

1. This mandamus appeal is at the instance of State of West Bengal and is directed against order dated 19th September, 2005 passed by a learned Single Judge of this Court by which His Lordship directed the respondent No. 5, namely, Gram Panchayat Staff Recruitment Committee, to complete the process for giving appointment to the writ petitioner on compassionate ground in the died-in-harness category within a period of eight weeks from the date of communication of that order, so that the appointment could be given to the writ petitioner without causing any further delay.

2. There is no dispute that the father of the writ petitioner was an employee of the State Government. He died on 27th May, 2001. On 19th June, 2004 an application was filed for compassionate appointment of the writ petitioner on attaining majority. It further appears from record that the three-men-committee appointed by the State Government for the purpose of enquiring the financial position of the family of the deceased employee gave report in favour of granting appointment by specifying that annual income of the family was Rs. 10,000/-.

3. In spite of such report the State Government having taken no step for

implementation of the said decision, the writ petitioner came up with the application under Article 226 of the Constitution of India alleging inaction on the part of the State-respondents.

4. The said writ application was heard in the presence of the learned Advocate appearing on behalf of the State-respondents. It appears from the order impugned that at the time of hearing the report of the three-men-committee was not at all disputed, but only point advanced before the learned Single Judge on behalf of the State of West Bengal was that in view of Notification dated 6th June, 2005 issued by the Government of West Bengal which was adopted by Panchayat and Rural Development Department on 12th July, 2005, all the conditions for granting appointment on compassionate ground were not fulfilled.

5. The learned Single Judge, however, had overruled such objection on the ground that before the issue of such notification, the process of selection had already started and the three-men-committee had already given report and, therefore, the said notification cannot have application to the case of employment in the present case. Ultimately, the learned Single Judge passed the order as mentioned earlier.

6. Being dissatisfied, the State of West Bengal has come up with the present mandamus appeal.

7. The learned Advocate appearing on behalf of the appellants strenuously contended before us that the report submitted by three-men-committee was not in conformity with the other materials on record even placed by the writ petitioner. He drew attention of this Court to the fact that the deceased employee has six grown up sons, and, as such, there is no justification of granting such compassionate appointment.

8. After going through the materials on record, we find that the deceased had twelve children in all. His first wife predeceased him and through the first wife six children were born, two sons, four daughters, all married. The two sons are all settled in Gujarat and have no connection with the second wife and the children born from the second wife. So far the children born from the second wife are concerned, the daughters are no doubt, married, but out of four sons, only one has established in life and all the three sons and widow mother are dependent upon him.

9. After taking into consideration of the fact that so many persons are dependent upon a boy aged 20 years, the three-men-committee was of the view that compassionate appointment should be given to the writ petitioner and in that event, the burden of that son can be lightened.

10. After taking into consideration the report, we are of the view, in such a situation there is no justification of interfering with the decision taken by the three-men-committee constituted by the State Government itself. We, thus, find that the learned Single Judge rightly passed a direction for giving appointment to

the writ petitioner in the facts of the present case.

11. At this stage, the learned Advocate for the appellants points out that the Division Bench of this Court after entertaining the appeal, on the application for stay filed by the State directed that in the event the appeal fails in the long run, the writ petitioner should get notional appointment from the date eight weeks after the passing of the order of the learned Single Judge. The learned Advocate submits that such direction should not be given and without doing anything, the writ petitioner should not be entitled to any salary.

12. After taking into consideration of the fact that the appointment of the writ petitioner was stayed on the prayer of the appellants and ultimately, we are going to dismiss this appeal, we direct the State-respondents to give appointment to the writ petitioner positively within one month from today. However, he should be deemed to have been appointed notionally after the expiry of eight weeks from the date of the order passed by the learned Single Judge for all other purpose including increment, promotion, scale of pay, retiral benefit, etc. but salary should be given to the petitioner from the date when he joined service pursuant to the order passed by us.

13. The mandamus appeal is, thus, dismissed.

14. No order as to costs.

15. Xerox certified copy of this order, if applied for, be supplied to the parties within a week from the date of making of such application on compliance with requisite formalities.