
(2018) 12 CAL CK 0016

In the Calcutta High Court

Case No : M.A.T. 2067 Of 2017, Civil Application No. 11666 Of 2017

Susmita Kamp

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 06-12-2018

Acts Referred:

Constitution of India 1950 — Article 14

Citation : (2018) 12 CAL CK 0016

Hon'ble Judges : Subhasis Dasgupta, J; Harish Tandon, J

Bench : Division Bench

Advocate : Atarup Banerjee, Bapin Baidya, Gourav Das, Joytosh Majumdar, B.P. Vaisya, Kakali Samajpati

Final Decision : Dismissed

Judgement

An unsuccessful writ petitioner has filed the instant mandamus appeal challenging the judgment and order dated 3rd November, 2017 passed in W.P. 23410 (W) of 2017. A writ petition was filed by the appellant challenging and order dated 17th November, 2017 by which an application for appointment on compassionate ground was rejected.

Admittedly, the mother of the petitioner was a primary teacher and died on 7th May, 2014 leaving behind her husband, one son, three married daughters and the petitioner being the unmarried daughter. It is no longer res integra that the appointment on compassionate ground somewhat offends Article 14 of the Constitution of India but have been still recognized for the simple reason that the family who suffered a sudden jerk because of the untimely death of a sole bread earner should be provided sustenance by appointing a member of the family to tide over the penury of the said family. The strictness of adhering rules, if there be any, in this regard is imperative as any departure therefrom would offends the rights of the other eligible candidates who are within the zone of consideration and expected to an opportunity of participation in the recruitment process.

It appears that the provisions of West Bengal Schools Service Commission (Selection of Persons for Appointment to the Post of Non-Teaching Staff), Rules, 2009 is applicable providing the mechanism for dealing with the cases of compassionate appointment.

The expression financial hardship appearing in the aforesaid Rules have been qualified by way of explanation appended there to and, therefore, the candidature must fulfils the criteria indicated therein. It appears that the petitioner does not fall within the aforesaid criteria and, therefore, we do not find any infirmity in the decision of the respondents authorities in rejecting the said application.

We, therefore, do not find any merit in the appeal.

The appeal is thus dismissed.

There shall be no order as to costs.

In view of the dismissal of the appeal, the connected application is also dismissed.