

Tribunal Application

Present: The Hon'ble Justice Pranab Kumar Chattopadhyay

And The Hon'ble Justice Md. Abdul Ghani

Judgment on 02.09.2010

W.P.S.T.247 of 2010.

Somajyoti mitra

-Vs-

State of West Bengal and others

Points:

Compassionate Appointment-Whether authority is required to consider the report of the fact finding committee in considering compassionate appointment-Service Law

Facts:

Writ petition filed being aggrieved by the order of rejection of the claim for appointment on compassionate ground without considering the report of the enquiry committee.

Held:

The District Magistrate, Purba Midnapore cannot ignore the recommendation of the fact finding committee viz., the three men enquiry committee and substitute his own opinion in absence of appropriate valid reasons.

Para 4

Mr. Arabinda Chatterjee,

Ms. Sumana Chakraborty.

...For the Petitioner.

Mr. Ashok Sarkar.

...For the State.

The Court: The petitioner herein is aggrieved by the order dated 31st July, 2008 passed by the District Magistrate, Purba Midnapore whereby and whereunder the said District Magistrate rejected the claim of the petitioner for appointment on compassionate ground.

2. Mr. Arabinda Chatterjee, learned Counsel representing the petitioner submits that the said District Magistrate, Purba Midnapore without considering the report of the three men enquiry committee rejected the prayer of the petitioner. Mr. Chatterjee also submits that the said three men enquiry committee specifically recommended for employment of the petitioner on compassionate ground upon appreciating the immediate need of financial assistance of the family of the deceased employee. Mr. Chatterjee further submits that the District Magistrate, Purba Midnapore cannot substitute his own opinion ignoring the report of the three men enquiry committee.

3. Mr. Sarkar, learned Counsel of the State respondents submits that the District Magistrate, Purba Midnapore being the superior authority has considered various other factors upon examining the claim of the petitioner in further details.

4. We are, however, of the opinion that the District Magistrate, Purba Midnapore cannot ignore the recommendation of the fact finding committee viz., the three men enquiry committee and substitute his own opinion in absence of appropriate valid reasons. Furthermore, on examination of the reasons furnished by the District Magistrate, Purba Midnapore for rejecting the claim of the petitioner, we find that those reasons are not based on correct appreciation of the actual facts.

5. In the aforesaid circumstances, the learned Tribunal should not have approved the decision of the District Magistrate, Purba Midnapore and dismissed the application of the petitioner by the impugned judgment and order dated 31st March, 2010.

6. For the aforementioned reasons, we quash the order passed by the District Magistrate and Collector, Purba Midnapore on 31st July, 2008 and direct the District Magistrate and Collector, Purba Midnapore to consider the claim of the petitioner for employment on compassionate ground upon taking note of the report of the three men enquiry committee and also granting an opportunity of hearing to the petitioner herein.

7. For the reasons mentioned hereinabove, the impugned judgment and order passed by the learned Tribunal also cannot be sustained and the same is accordingly set aside.

8. Since considerable time has already lapsed at the instance of various authorities including the learned Tribunal, we direct the District Magistrate and Collector, Purba Midnapore to consider the claim of the petitioner for employment on compassionate ground in terms of this order afresh and without being influenced by the delay due to the lapse of couple of years after the death of the employee concerned since the petitioner herein submitted application claiming appointment on compassionate ground immediately after the death of his mother. It should be also on record that nothing has been produced before this Court wherefrom it can be said that the financial condition of the family of the deceased employee has improved in recent past.

9. The District Magistrate and Collector, Purba Midnapore is directed to consider the claim of the petitioner for employment on compassionate ground in terms of this order at an early date but positively within a period

of three weeks from the date of communication of this order and communicate the decision to the said petitioner within a week thereafter.

10. This writ petition thus stands allowed.

11. There will be no order as to costs.

12. Urgent xerox certified copy of this order, if applied for, shall be given to the appearing parties, as early as possible.

(Pranab Kumar Chattopadhyay, J.)

(Md. Abdul Ghani, J.)

