

(2012) 09 CAL CK 0031

Calcutta High Court

Case No: Writ Petition No. 19796 (W) of 2012

Sri Surojit Das

APPELLANT

Vs

State of West Bengal
and Others

RESPONDENT

Date of Decision: Sept. 13, 2012

Citation: (2013) 1 WBLR 668

Hon'ble Judges: Debasish Kar Gupta, J

Bench: Single Bench

Advocate: Ishita Chakraborty, for the Appellant; Daya Shankar Mishra, for the Respondent

Final Decision: Dismissed

Judgement

Debasish Kar Gupta, J.

Let affidavit-of-service be kept on record. This writ application is directed against an order passed by the Deputy Secretary to the Government of West Bengal, Education Department under his Memo No. 706-SE(P) dated July 28, 2004 which was communicated to the petitioner by the respondent No. 6 under his Memo No. 1326 dated December 5, 2005. By virtue of the impugned order the respondent authority rejected the prayer of the petitioner for appointing him on compassionate ground due to death of his father in harness who was a primary school teacher within the jurisdiction of the District Primary School Council, Dakshin Dinajpur. The father of the petitioner late Sarit Kumar Das breathed his last on June 11, 1999.

2. According to the petitioner, he submitted an application immediately after the death of his father for his appointment on compassionate ground. According to the petitioner, he attained majority of age after a period of two years from the date of the death of his father. By the virtue of the impugned decision, the respondent authority rejected the claim of the petitioner on the aforesaid ground.

3. Having heard the learned Counsel appearing for the respective parties as also after considering the facts and circumstances of this case, I find that a short point of

law is involved in this writ application. It is a question relating to entertaining a claim of a dependent of a deceased primary school teacher to appoint him on compassionate ground whose claim was entertainable beyond the period of two years from the date of death of the teacher concerned. Rule 14 of the Recruitment and Leave Rules of Primary Teachers circulated under Notification No. 768-Edn(P) dated November 22, 1991 was in vogue at that point of time. The above provisions are set out below:

14. Appointment on compassionate ground.--The Council may appoint primary teachers with the approval of the director on compassionate ground in the following cases where in the opinion of the Council, the cases deserve compassionate consideration;

(a) when a teacher dies in harness before the date of his superannuation leaving a family which, in the opinion of the Council, shall be in extreme economic hardship, (1) the unemployed widowed wife, or (2) the unemployed son, or (3) the unemployed unmarried daughter, of the deceased primary teacher possessing required educational qualifications as laid down in sub-rules (a) and (b) of Rule 6 and found eligible from teach, may make within two years from the date of such death a prayer in writing to the Council for appointment as primary teacher on compassionate ground, provided that only one member of a deceased primary teacher's family may be appointed on compassionate consideration;

(b) when a primary teacher is declared permanently incapacitated by the competent medical board set up according to the procedure laid down in the Government order and he has been allowed to retire at least two years before he attains the age of superannuation and his family is in extreme economic hardship after such retirement, (1) the unemployed wife, or (2) the unemployed son, or (3) the unemployed unmarried daughter, of the incapacitated and prematurely retired primary teachers possessing the required Educational qualifications as laid down in sub-rules (a) and (b) of rule 6, and found eligible to teach, may make within two years from the date of such retirement, a prayer in writing to the Council for appointment as primary teacher on compassionate ground:

Provided that only one member of the family of the incapacitated and prematurely retired primary teacher possessing the required educational qualifications and found eligible to teach, may be appointed on compassionate ground.

4. After perusing the above provisions, I find that the claim for appointment on compassionate ground can be lodged within a period two years from the date of the deceased primary school teacher. In this case the petitioner was not eligible to lodge his above claim within two years from the date of death of his father. Therefore, I do not find any illegality or impropriety in decision making process of the respondent authority.

5. This writ application is, thus, dismissed.

6. There will be, however, no order as to costs. Urgent photostat certified copy of this order be supplied to the parties, if applied for, subject to compliance with all necessary formalities.