

(2013) 03 CAL CK 0017

Calcutta High Court

Case No: Writ Petition No. 320 of 2012

Monojit Das

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: March 4, 2013

Citation: (2014) LabIC 361

Hon'ble Judges: J.K. Biswas, J; Dipak Saha Ray, J

Bench: Division Bench

Advocate: Bhaskar Chandra Manna, for the Appellant; Tapan Kumar Mukherjee and
Bikash Kumar Mukherjee for State, for the Respondent

Final Decision: Dismissed

Judgement

J.K. Biswas, J.

The petitioner in this WPST under Art. 226 of the Constitution of India dated August 14, 2012 is questioning an order of the West Bengal Administrative Tribunal dated July 17, 2012 dismissing his OA No. 88 of 2012. The petitioner's father was working as a Junior Technical Assistant in the Government College of Engineering and Textile Technology, Serampore, Hooghly. Having been incapacitated by disease, he retired prematurely on September 18, 2006. He died on June 6, 2007.

2. The petitioner's mother submitted an informal application dated September 10, 2007 (WPST p.34) asking the Principal of the College to give the petitioner an employment on compassionate grounds. She submitted another informal application dated July 22, 2008 (WPST p.36). The petitioner also submitted an informal application dated July 22, 2008 (WPST p.35).

3. He also submitted an application dated July 22, 2008 (WPST p.30) in prescribed form seeking an employment on compassionate grounds stating that his father had died in harness. He and his mother claimed that a notification of the Labour Department No. 30-EMP dated April 2, 2008 (WPST p.37) entitled him to claim an

employment on compassionate grounds.

4. Then he moved an OA No. 858 of 2010. By an order dated December 2, 2010 (WPST p.42) the Tribunal disposed of the OA directing the Director of Technical Education, Government of West Bengal to treat the OA as a representation and give a decision. Accordingly, the Director gave a decision dated March 18, 2011 (WPST p.44).

5. The Director said as follows. The petitioner's father did not apply for an employment on compassionate grounds for any of his dependants pursuant to the Labour Department's Notification No. 303-EMP dated August 21, 2002 that was in force at the date he applied for premature retirement due to permanent incapacitation. The petitioner applied after his father's death on June 6, 2007. Not a fit case to offer an employment on compassionate grounds.

6. Questioning the decision of the Director dated March 18, 2011 the petitioner moved the OA No. 88 of 2012. The Tribunal held that the petitioner was not entitled to apply for an employment on compassionate grounds saying that his father had died in harness.

7. Mr. Manna appearing for the petitioner has argued as follows. The Tribunal wrongly held that the petitioner applied for an employment on compassionate grounds as a dependant of an employee who died in harness. Immediately after the death of the employee his wife submitted application for an employment on compassionate grounds for the petitioner. The Director was wrong in rejecting the request.

8. The Government issued executive orders from time to time and the executive order dated April 2, 2008 whose benefits the petitioner wanted was not applicable to his case. At the dates his father applied for premature retirement and was granted it, an executive order dated August 21, 2002 was in force.

9. The petitioner's father applying for premature retirement due to permanent incapacitation did not make any request either at the date he submitted the application for premature retirement or after his retirement on September 18, 2006 till June 6, 2007 when he died. The petitioner and his mother applied only after his father died.

10. An employment on compassionate grounds could be offered only if the family of the prematurely retired employee was in immediate need of financial assistance. The very fact that none applied for such an employment until June 6, 2007 when the petitioner's retired father died is sufficient to lead to a conclusion that the family was not in such a need. We are unable to accept that the Director unjustly rejected the request. For these reasons, we dismiss the WPST. No costs. Certified xerox.