

married daughter dependent on her father/mother being shut out from even applying for compassionate appointment without considering whether she was at all dependant for her survival on the earnings of the deceased. Pursuant to the said judgment, the Labour Department amended the memorandum dated December 03, 2013 whereby the distinction between married and unmarried daughter was done away with. The learned single Bench remanded the matter to the Additional Chief Secretary to the Government of West Bengal, Panchayat and Rural Development Department, Government of West Bengal for a fresh decision in the light of the decision of the Hon'ble three judges' Bench which was subsequently upheld by the Hon'ble Supreme Court. The Labour Department's memorandum dated November 04, 2022 was also directed to be looked into. Pursuant to the said order, the issue was re-visited by the Deputy Secretary to the Government of West Bengal who by the order impugned dated June 11, 2024, turned down the prayer of the petitioner on two fold grounds:-

“1) Petitioner does not fulfil the eligibility conditions with regards to computed total income of the family as envisaged in the concerned notifications. Sanjay Nath, son of the deceased has submitted in the form of Affidavit that he works as Associate Professor at K.N.College, Berhampur. As he is included in the list of dependable family

member in Part II of proforma application, his monthly income of Rs.170178/- is liable to be included with the total family income, whereby, it exceeds 90% of the total salary last drawn by Late Sanatan Nath. Thus, the need of immediate financial assistance is not established in the proposal.

2) Date of death of deceased employee Sanatan Nath, Ex-Executive Assistant, Shyamnagar GP under Tehatta-I Dev. Block, Nadia, is 19-03-2010. Whereas, date of submission of Pro forma application by the applicant is on 30-11-2017 which is after 7 years of death of the employee. In the light of Cl 10(a) of Notification no 251-Emp dated 03.12.2013, revised vide Notification no. 26-emp dated 01-03-2016 of Labour Deptt GOWB, the proforma application, having been submitted after 7 years of death of deceased employee, has failed to justify the requirement of financial assistance of the family.”

The said order is assailed by the petitioner before this Court.

Learned counsel for the State submits that the contention of the petitioner in the initial application submitted by her on August 06, 2010 and the affidavit affirmed by her before the authority on March 21, 2024 is contradictory. In the application, the petitioner has stated

that she has been dependent on her father from 2007 and was residing with her parents since then. In the affidavit affirmed by her, she has stated that she permanently shifted to her father's house in 2017, that is about 7 years after expiry of her father. Also, the application in the prescribed format has been submitted by the petitioner 7 years after expiry of her father. The petitioner has failed to justify the requirement of financial assistance of the family.

I have considered the rival submission of the parties and material on record.

In the affidavit affirmed by the petitioner, she has stated that she is totally dependent on her father and thereafter on her mother's pension for her financial requirements and has been residing permanently in her father's house from 2017. She has also stated that her brother Sanjoy Nath works as an Associate Professor and resides with his family separately. She has undertaken to take complete financial responsibility of her mother during her life time in the event of compassionate appointment being granted. Her contention in the application filed by her on August 06, 2010 before the concerned authority speaks in tune with the affidavit affirmed by her except that she has claimed in her application that she has been residing in her father's house from three years prior to her father's death, that is, from 2007. Both the versions are consistent with regard to the fact that she was financially

dependent on her father and thereafter on her mother completely. She has also undertaken to look after her mother throughout her life time if she is granted compassionate appointment.

The District Magistrate, Nadia, by an order passed on May 06, 2015, directed formation of a three men screening-cum-enquiry committee to enquire into the genuineness of the prayer of the petitioner regarding her employment on compassionate ground as well as the financial condition of the family of the deceased in the light of the notifications dated December 03, 2013 and September 29, 2014. Upon holding enquiry, the three member committee has submitted a report which states that the petitioner is financially dependent on her mother's family pension and has been residing with her mother from 2017 due to strained marital relationship. The other heirs of the deceased have no objection to her claim and have expressed their consent towards her getting such benefit, by way of an affidavit. She has also undertaken to take care of her senior citizen mother in the event of her being employed. The committee has stated that the monthly income of the family of the deceased falls below 90% of the gross monthly salary of the deceased. As such, the committee has recommended her appointment on compassionate ground.

The monthly income of the son is not relevant in determining the eligibility of the petitioner for

compassionate appointment for the reason that the son resides separately with his family.

With regard to the delay in filing the application in prescribed format, this Court is inclined to refer to the amended provision of clause 10(bb) to the notification dated December 03, 2013. The provision reads as hereunder:-

“The concerned authority in the department/office should meet the members of the family of the deceased Govt. servant immediately after his death to advise and assist them in getting appointment on compassionate ground. The applicant should be called in person at the very first stage and should be advised in person about the requirement and formalities to be completed by him. A record of such meeting should be kept with the office of the controlling authority and appointing authority.”

The statement of facts submitted by the State does not indicate compliance with the said provision. In absence thereof, the application in the prescribed proforma cannot be brushed aside on the ground of delay. It is not in dispute that the initial application was submitted by the petitioner immediately after her father's death. Once such application was made within the requisite time, completion of requisite formalities was required to be followed up by the authorities under clause 10(bb) of the notification. The

same not being done, rejection of the petitioner's claim is not sustainable.

In view of the above, the order impugned dated June 11, 2024 being devoid of legal sanction, is set aside.

The District Panchayat and Rural Development Officer, Nadia, being the 6th respondent herein, is directed to consider the application submitted by the petitioner and grant compassionate appointment to her upon the petitioner complying with requisite formalities.

The entire exercise shall be completed within six weeks from the date of communication of this order.

The writ petition is disposed of.

There shall, however, be no order as to costs.

Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)