

S/L 23
08.05.2026
Court No.04
B.K.N

W.P.S.T. 255 of 2025
Sk. Rezaul Karim
Vs.
The State of West Bengal & Ors.

Mr. Manas Kumar Das

...for the Petitioner.

1. The petitioner's claim for the benefit of compassionate appointment was found untenable under the extant scheme/provision on the ground that the family income exceeded 90 per cent of the family income of the writ petitioner at the time of his father's demise.
2. The learned advocate for the writ petitioner submits that the authorities while arriving at such a conclusion, by including income from family pension, which was not liable to be included.
3. It appears from the order of the Tribunal that the petitioner contended that the income from family pension was not to be included relying upon decision of the Hon'ble Apex Court in the case of ***Govind Prakash Verma –Vs.- Life Insurance Corporation of India & Ors.*** reported in ***(2005) 10 SCC 289***. The Tribunal has considered the judgment of the Hon'ble Supreme Court of India, which was delivered considering the provisions under which the compassionate appointment was claimed in that case.
4. The provision falling for consideration in the present case on the other hand, specifies the modus of

calculating the family income for determining eligibility for grant of benefit of compassionate appointment. The writ petitioner could not show that the terms and conditions contained in the extant provisions either in 30-Emp dated 02.04.2008, or 251-Emp dated 03.12.2013 as clarified by 26-Emp dated 01.03.2016, was in any way violated while ascertaining/calculating the family income of the dependents for the purposes of eligibility for compassionate appointment.

5. During arguments it is further revealed that the writ petitioner's mother was also a Government employee working as a school teacher. She retired from service in January, 2011 and it is submitted by the learned advocate for the writ petitioner that she started receiving pension for the services rendered by herself, from the year 2014.
6. Therefore, another issue which arises for our consideration is whether the writ petitioner, his brother, or his mother can be said to be a "*Dependent Family Member*" as defined in Clause 3 of the notification 251-Emp, being the scheme for compassionate appointment. Clause 3 reads:

"(3) Definition –

"Dependent Family Member" means

(a) Spouse; or

(b) Son (including legally adopted son before death or incapacitation); or

(c) Unmarried daughter (including legally adopted unmarried daughter before death or incapacitation); or

(d) Married daughter who on date of death or incapacitation was unmarried; or

(e) Brother or sister in case of death-in-harness of an unmarried employee provided his/her parent, all the brothers and sisters were fully dependent on him/her,

who was wholly dependent on the Government employee at the time of his death-in-harness or incapacitation, as the case may be, and is in need of immediate financial assistance at the time of making application and also at the time of consideration.

*(f) “**Government employee**” for the purpose of this scheme means a Government employee appointed on regular basis and not the one working on daily wage or casual or apprentice or ad-hoc on contract on re-employment basis.”*

7. The dependent family member is defined in terms of relationship with the Government employee who dies in harness or is incapacitated for service. However, the eligibility for grant of compassionate appointment, as per the definition is not founded only on the relationship of the claimant with the deceased. A plain reading of the definition clause leaves no ambiguity, that the class of dependents are entitled to benefit of compassionate appointment, provided they were fully dependent/wholly dependent on the Government employee at the time of his death in harness or incapacitation.
8. The present writ petitioner, son of the deceased Government employee would not qualify under this definition as he was not fully or wholly dependent on his father at the time of demise of his father in harness since his mother was also a retired Government employee and recipient of pensionary benefit, payments of which have been subsequently made since 2014.

9. It is by now settled law that the compassionate appointment is in exception to the general rule of recruitment. The benefit is contemplated for dependents of a Government employee who dies or is incapacitated for service while in harness, to tide over the crisis arising out of sudden loss of the sole bread earner. It is in this context that the law was stated through several judgments of the Hon'ble Apex Court that the benefit is to be granted strictly in terms of the policy/scheme governing grant of such benefit. The Apex Court held that compassionate appointment is not a source of recruitment . the benefit is founded on an objective and the policy/scheme containing such objective prescribes the terms and conditions so as to fulfil such objectives. The benefit, therefore, is to be considered and granted strictly in terms of the policy/scheme. In this connection, we are fortified in our conclusions by recent decision of the Hon'ble Apex Court in the case of ***State of West Bengal –Vs.- Debabrata Tiwari and Others*** reported in **(2025) 5 SCC 712**.

10. As noticed above the petitioner does not fulfil the eligibility on two grounds. Firstly, he cannot be considered as a “*Dependent Family Member*” as per the extant policy as he was not fully/wholly dependent upon the father (Government employee) who died in harness. The Tribunal found the petitioner disentitled to such benefit based on another ground since the family income was not below 90 per cent of the salary received by the

petitioner's father at the time of his demise. The petitioner failed to discredit such finding of the authorities.

11. We, therefore, find no reason to exercise judicial review under Article 226 of the Constitution of India to interfere with decision of the West Bengal Administrative Tribunal in O.A. 817 of 2016 dated 17.01.2024 as the petitioner has not been able to make out any case for relief/interference with the order of the Tribunal.
12. The writ petition is dismissed.
13. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)