28.09.2026
Item No.03
Court No.11
Avijit Mitra

WP.ST 178 of 2026

Sourav Dome
-Versus-
The State of West Bengal & ors.

Mr. S.S. Arefin,
Ms. Kaniz Kulsum,
Ms. Anamika Jana
...for the petitioner
Mr. D.N. Ray, Ld. G.P.,
Mr. Pulakesh Bajpayee,
Mr. Guddu Singh,
Mr. Sourav Halder,
Ms. Diya Chakrabortys
...for the State

Records reveal that the writ petitioner, namely, Sourav Dome (in short, Sourav) filed an original application (in short, OA) being OA 18 of 2023 challenging an order dated 28th October, 2022 passed by the respondent no.3 by which Sourav's claim for compassionate appointment was rejected because '*the applicant was minor i.e. nearly 12 years 06 months old at the time of death of the ex-employee*'. Subsequent thereto, the learned Tribunal stopped functioning and as Sourav was rendered remediless, he was constrained to file the present writ petition.

The following facts are not in dispute. Sourav's father, namely, Mahesh Dome (in short, Mahesh) died-in-harness on 23rd February, 2015 while working under the Burdwan Medical College and Hospital (in

short, said hospital). To tide over the financial distress, Sourav's mother, namely, Mala Dome (in short, Mala) submitted an application for grant of compassionate appointment and the same was forwarded to the competent authority by the respondent no.4 *vide* memo dated 16th June, 2015. Pending consideration of the said application, Mala expired on 26th November, 2021. In the midst thereof, Sourav attained majority and approached the authorities for grant of compassionate appointment in place and stead of his father. All relevant documents pertaining to Sourav's claim were forwarded to the respondent no.2 by the respondent no.4 *vide* memo dated 17th August, 2022. In response thereto, the respondent no.3 passed the order dated 28th October, 2022 rejecting Sourav's claim.

Mr. Arefin, learned advocate appearing for Sourav submits that Sourav's claim could not have been rejected on the ground that he was a minor at the time of death of Mahesh inasmuch as his mother duly applied to the competent authority for grant of compassionate appointment within time but the same was not considered till her death on 26th November, 2021. The Labour Department notification no.251-Emp dated 3rd December, 2013 and the notification no.26-Emp dated 1st March, 2016 provide a time frame for disposal of an application for compassionate

appointment. The respondents admittedly sat tight over the matter and took no decision on the application for compassionate appointment till Mala's death. Such non-discharge of statutory obligation by the authorities cannot act to the prejudice of Sourav's claim and his claim could not have been rejected as he was a minor at the time of death of his father.

Mr. Bajpayee, learned advocate appearing for the respondents denies and disputes the contention of Mr. Arefin and submits that a claim for compassionate appointment is not a vested right and cannot be claimed as a matter of right. Such claim is required to be considered strictly in terms of the scheme regulating appointment on compassionate ground promulgated *vide* notifications dated 3rd December, 2013 and 1st March, 2016. The said scheme disentitles a person who was a minor at the time of death of the ex-employee.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Indisputably, Mala's claim for compassionate appointment was kept in abeyance till her death on 26th November, 2021. In the midst thereof, there was no response from the authorities as regards consideration of Mala's claim. The notifications dated 3rd December, 2013 and 1st March, 2016 categorically

provides that after receiving an application for compassionate appointment, the concerned authority in the department should meet the members of the family of the deceased immediately after his/her death to advise and assist them in getting the appointment on compassionate ground. It is also provided that the applicant should be called in-person at the very first stage and should be advised in brief about the required formalities to be completed by him/her and a record of such meeting shall also be retained in the offices of the controlling authority and the appointing authority. It has also been mandated that all cases on compassionate appointment should be disposed of by the administrative department preferably within six months from date of receipt of the report of the 3 (three) member Screening-cum-Enquiry Committee. In the instant case, such specific statutory obligation had not been discharged by the authorities. On the rudiments of such inaction, Sourav's claim could not have been rejected on the ground that he was a minor at the time of death of his father.

As a model employer, the State Government must conduct itself with high probity and candor and ensure that its employees do not succumb to any procedural rigmarole, particularly, when the claim pertains to a beneficial scheme towards

compassionate appointment. There was no trick and device resorted to by Sourav and his claim ought not to have been rejected on the purported ground that he was a minor at the time of death of his father. Justice cannot be forsaken on the altar of technicalities.

Applying such principles to the facts of the case, we are of the opinion that the impugned order dated 28th October, 2022 passed by the respondent no.3 is not sustainable in law and the same is, accordingly, set aside.

The respondents are directed to constitute a 3 (three) member Screening-cum-Enquiry Committee as referred in Clause 10(c) of the notification no.251-Emp. dated 3rd December, 2013 and the said Committee shall ascertain if there is immediate need of financial assistance for the family in the shape of employment and submit an enquiry report to the respondent no.3 and thereafter the said respondent shall take a final decision, in accordance with law and communicate such decision to Sourav.

The above exercise shall be completed within a period of eight weeks from the date of communication of this order to the respondents.

With the above observations and directions, the OA before the learned Tribunal and the present writ petition is disposed of.

Office is directed to intimate this order to the Registrar of the learned Tribunal to record such disposal of the OA.

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

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Pratim Roy, J.) **(Tapabrata Chakraborty, J.)**