

Constitutional Writ  
Present: The Hon'ble Mr Justice Jayanta Kumar Biswas  
**Judgment On : 19-02-2010.**  
W.P.No.4609 (W) of 2002  
**Sri Manas Bhattacharya**  
-vs-  
**The State of West Bengal & Ors.**

**Point:**

**Compassionate appointment:** Compassionate employment is given by making an exception to the recruitment rules - Constitution of India – Art. 226

**Fact:** The petitioner by filing the instant writ application has questioned the decision of the Secretary, Ad-hoc Committee, District Primary School Council whereby prayer for compassionate employment was rejected.

**Held:** A compassionate employment is provided only to help the dependants of the deceased employee to tide over the acute financial crisis into which they find themselves because of the overnight disappearance of the breadwinner. Compassionate employment is not a matter of right. It is given by making an exception to the recruitment rules and hence there must be an exceptional case. (Paragraph – 7)

**The Court: -**

1. The petitioner in this art.226 petition dated April 4,2002 is questioning the decision of the Secretary, Ad-hoc Committee, District Primary School Council, Bankura, Annexure P8 at p.23, a copy whereof was supplied to him by a memo dated November 30, 2000.

By the decision the Sub-Inspector of Schools, Borjora Circle was informed as follows:

“ In reference to the above this is to inform him that the prayer of Sri Manas Bhattacharyya S/O Late Swapan Kr. Bhattacharyya, Ex-teacher Sahebdanga-Beldanga Pry. School for his appointment as Pry. teacher in D.H.Category can not be entertained in terms of the new Recruitment Rule of Pry. teachers vide para 14 a) of the Notification No.768-Edn.(p) dated 22.11.91, since his mother Sm. Depali Bhattacharyya, the widow wife of the deceased teacher, is now serving as Pry. teacher under this council and drawing salary of Rs.8194/- per month and the family of the deceased teacher consisting of 2(two) members only.”

2. The petitioner's father was the headteacher of Sahebdanga-Beldanga Primary School in the district Bankura. He died-in-harness on January 23, 2000.

He was survived by his wife, two sons and a daughter.

The widow submitted an application dated March 10, 2000, Annexure P3 at p.17, requesting the Chairman, Bankura District Primary School Council to give the petitioner, the younger son of the deceased teacher, a compassionate employment. The petitioner also submitted an application dated March 10, 2000, Annexure P3 at p.18.

3. The Secretary of the Ad-hoc Committee issued a letter dated April 25, 2000, Annexure P6 at p.21, asking the petitioner to submit the documents mentioned in the letter. After considering the case the council gave the impugned decision.

4. The council rejected the petitioner's request for compassionate employment on the grounds that his mother, wife of the deceased teacher, is a primary school teacher, and that the family of the deceased teacher has only two members.

5. The case stated in paras.7 and 8 of the petition is as follows:

"7. Your petitioner states that it may be pertinent to mention here that the matter of your petitioner has been living separately from the family since the life time of the father of your petitioner and as such she does not contribute to the family at all.

8. Your petitioner states that the brother of the petitioner who is also a primary school teacher has already issued a no-objection certificate in respect of the appointment of your petitioner as a primary school teacher in the died-in-harness

category on account of the death of their father Mr. Swapan Kumar Bhattacharya."

6. It is, therefore, evident that the correctness of the facts relying on which the council rejected the prayer for compassionate employment has not been disputed by the petitioner. The wife and the elder son of the deceased teacher both are primary school teachers. Needless to say that the family of the deceased teacher received all terminal benefits according to law.

7. As is known, a compassionate employment is provided only to help the dependants of the deceased employee to tide over the acute financial crisis into which they find themselves because of the overnight disappearance of the breadwinner. Compassionate employment is not a matter of right. It is given by making an exception to the recruitment rules and hence there must be an exceptional case.

8. I do not find any reason to say that the council ought to have treated the petitioner's case as an exceptional case. I am not prepared to go by the case made out for the first time in the petition that the petitioner's mother was living separately from long before the death of his father. It is an evident afterthought.

9. In fact the lady herself applied for the petitioner's compassionate employment. There is no reason to interfere with the decision.

For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)

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