

J U D G E M E N T

1. The instant application has been filed praying for following relief:
 - (a) Any order and/or orders, direction and/ or directions upon the respondent authorities and each of the to consider to appoint the applicant in any Group "C" post commensurate with his educational qualification.
 - (b) Any order / or direction upon the respondent authorities to certify and transmit before this Hon'ble Court all records and proceedings relating to the appointment of the applicant on compassionate ground.
 - (c) Any order and/or direction upon the respondent authorities to certify and transmit before this Hon'ble Court all records relating to the Vacancy position in the Group "C" post under exempted Category in the Civil Defence Department, particularly in the District of Burdwan.
 - (d) Any other or further orders or orders, direction and/or directions as to this Hon'ble Court may deem fit and proper.

2. As per the applicant, his father died in harness on 09.05.2011 (Annexure-A). Subsequently, his mother made a representation dated 06.06.2011 praying for compassionate appointment in favour of the applicant (Annexure-B). Subsequently, the respondents processed the case of the applicant for compassionate appointment and ultimately vide letter dated 09.07.2014 (Annexure-E), the applicant was offered with an appointment under exempted category on compassionate ground for a post of "Aragami", which according to the applicant is equivalent to Group D post having no future prospect of promotion. Immediately, thereafter the mother of the applicant vide letter dated 26.07.2014 requested the respondent authority to give him posting anywhere in the district of Burdwan so that the applicant can attend duties and comeback in the evening and look after his mother. However, the State Commandant vide Memo dated 31.07.2014 without considering his application, had asked the applicant to appear before him as a last chance to accept the appointment. The mother of the applicant again made an application dated 15.11.2014 to the Hon'ble Minister-In charge, Civil Defence Department for sympathetic consideration of son of his appointment for suitable posting within the district of Burdwan. However, the respondent authorities vide their letter dated 16.03.2015 and 21.04.2015 had stipulated that if the

applicant would be failed to accept the post within a stipulated period, his candidature would be treated as cancelled as per provision of the Labour Deptt.'s Notification No.251-Emp. Dated 03.12.2013 and ultimately by Memo dated 18.05.15 (Annexure F), the State Commandant, West Bengal National Volunteer Force had informed the applicant that his candidature has been treated as cancelled as he did not join the said post within stipulated period of time. Thereafter, the applicant made again representation before the authority on 08.06.2016 but without any effect. Being aggrieved with, he has filed the instant application. As per the applicant, he is a graduate with computer literacy. Therefore, he should be given appointment commensurate with his qualification.

3. The respondents have filed their reply, wherein they have denied the contention made by the applicant. As per the respondents the applicant was granted repeated chance to join the offered post but the applicant had chosen not to join the said post & posting instead his mother made repeated representation to post the applicant within Burdwan district. According to the respondents, the post of "Aragami" in WBNVF is a Group C post having scale of pay of Rs.5400 to 25,200/- (P.B.2) with Grade Pay of Rs.1,900/- (pre revised scale of pay under ROPA 2009) was Rs.2,850 to 4,680/- (Scale No.3) as per the Memorandum No.7282-F dated 19.09.2008 of Finance Department (Audit Branch), Government of West Bengal. Further, the post of "Aragami" in WBNVF has a lot of promotional opportunity even at the rank of Deputy State Commandant as per the WBNVF Recruitment Rules 1973 (Annexure R-1). As per the counsel for the respondent since it is a case of compassionate appointment, the applicant has no right to choose any place of posting or post. Therefore, the respondents have prayed for dismissal of the OA.
4. The applicant has filed rejoinder wherein he has reiterated the same submission in the OA. During the course of hearing, the counsel for the applicant has also placed one Judgement reported in 1999(3) SLR 539 (RAJASTHAN HIGH COURT) **Sanjay Chowdhury -vs- State of Rajasthan.**
5. We have heard both the parties and perused the records. It is noted that it is a case of compassionate appointment and the applicant was offered with an appointment on compassionate ground for the post of "Aragami", which according to the respondent is a Group C post.

However, due to the non-joining of the applicant to the said post his candidature was cancelled on 18.05.2015 after granting him repeated opportunities. It is further noted that till cancellation of the appointment order, the mother of the applicant all along had prayed for posting of the applicant within the district of Burdwan due to her ill health. But no where the applicant or his mother made any representation with regard to his claim for any Group C post as claimed in the instant application. The applicant has only for the first time had made a representation on 08.06.16, wherein he has mentioned that being a graduate with computer literacy certificate, the appointment to the post of "Aragami" is not commensurate with his qualification.

6. Since the applicant was granted repeated opportunity to accept the appointment and due to his non-acceptance of the appointment to the post of "Aragami", his candidature on compassionate ground was cancelled, therefore, he is also estopped to claim further compassionate appointment on a new issue of having more qualification. The aforementioned judgement also distinguishable in view of the facts and circumstances of the instant case as in the case of SANJAY CHOUDHURY (Supra) the applicant had approached the High Court before cancellation of his candidature by challenging the offer of appointment on a lower post with regard to his qualification since he was graduate engineer and he was offered a post of LDC. It is a settled principles of law that compassionate appointment is not a matter of right. The main purpose to grant compassionate appointment is to help the family from sudden financial crisis occurred due to the demise of only bread earner. In our view, the applicant has no right of choice of posting or post while accepting the appointment under compassionate ground. Moreover, his candidature was cancelled vide communication dated 18.05.2015. But the instant application has been filed in July 2017 only. Therefore, the application is barred by limitation also. Thus, we do not find any reason to entertain the instant application. Accordingly, the OA is dismissed being devoid of merit as well as barred by limitation.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)