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ORDER SHEET  
APO/38/2025  
IN WPO/531/2021  
IA NO:GA/1/2025  
IN THE HIGH COURT AT CALCUTTA  
In an Appeal from its Constitutional Writ Jurisdiction  
ORIGINAL SIDE

WEST BENGAL TRANSPORT CORPORATION LTD AND ANR.  
VS  
DIPANKAR BANIK AND ORS.

BEFORE:  
The Hon'ble JUSTICE MADHURESH PRASAD  
AND  
The Hon'ble JUSTICE PRASENJIT BISWAS  
Date: 15<sup>th</sup> June, 2026.

*Appearance:*  
*Mr. Biswaroop Bhattacharya, Adv.*  
*Mr. Niladri Bhattacharya, Adv.*  
*Ms. Deblina Chattaraj, Adv.*  
*...for the appellants*

*Mr. Debduitta Basu, Adv.*  
*Ms. Soumalika Nandan, Adv.*  
*...for the respondents*

The Court: Heard the learned advocates for the appellants and the respondent/writ petitioner. The sole issue arising for consideration in the case was formulated by this Court in its earlier order dated 26.02.2026, whether under the scheme governing grant of compassionate appointment as contained in a notification dated 13.1.2011 the present petitioner's deprivation of the benefit of compassionate appointment by raising a plea of financial stringency is sustainable.

The Hon'ble Single Judge by a judgment dated 23.05.2025 had set aside the report of the Enquiry Committee dated 11.12.2020 and the consequent communication issued by the Managing Director dated 03.02.2021 rejecting the petitioner's claim. The Single Judge, thereafter held the petitioner eligible for appointment on compassionate ground and directed accordingly. The judgment dated 23.05.2025 is put to challenge in the present intra court appeal.

It is not in dispute that the petitioner's claim is required to be considered under the provisions contained in the notification dated 13.01.2011. The learned advocate for the appellants has drawn attention of the court towards Clause 10 of the same which reads as follows:-

*“The organization (STUs) have to keep an eye strictly on actual requirement and financial capability of the organization in case of appointment on compassionate ground.”*

He submits that there is scope for considering the financial capability/stringency under the scheme. Therefore, the rejection of the petitioner's claim on such ground did not require any interference by the Hon'ble Single Judge in the writ proceeding. The judgment is, therefore, fit to be set aside.

The learned advocate for the writ petitioner on the other hand submits that after due consideration of the scheme under which the claim for appointment was made and the report of the Enquiry Committee, the Hon'ble Single Judge found that the petitioner's claim admissible. The plea of financial stringency is unsustainable in the present facts and circumstances.

We have considered the rival submissions, the notification dated 13.01.2011, the report of the Enquiry Committee dated 11.12.2020 and the consequent communication from the Managing Director dated 03.02.2021. Upon perusal of the report of the Enquiry Committee, we find that the committee considered the petitioner's claim with reference to the notification dated 13.01.2011 and found that the family of the deceased (petitioner) is in need of immediate financial assistance. This is specifically stated in the second page of the report in the following terms:-

*“Upon considering the notifications dated 13.1.2011 and upon perusing the materials on record and those submitted by the petitioner it appears that the petitioner used to reside with his father Dilip Banik since deceased at the time of his death. Secondly upon perusing the death benefit received alongwith interest from the said benefits and pension being received and the income of the dependant/petitioner it appears that family of the deceased is in need of immediate financial assistance.”*

Having held so, the committee proceeded to reject the petitioner's claim by a consideration in the following terms :-

*“It appears from office records that the last appointment on compassionate ground was made on in the year 2014 on contractual basis pursuant to the order passed by Hon'ble High Court and in the said year appointment of conductors was also made on contractual basis. In terms of different government orders at present new appointments are made on contractual basis through Agencies. It further appears that pursuant to orders passed by Hon'ble High Court Calcutta certain applications for*

*compassionate appointment were taken up by the previous Enquiry Committee and recommendations made but the same are pending. Similarly certain applications for compassionate appointment which were made earlier about ten years before and recommended by committee are pending approval and appointment.*

*In the facts and circumstances there is little scope to give appointment to the petitioner incumbent on compassionate ground. Although at present appointments are made through Agencies but considering the fact that the petitioner/incumbent is engaged in a service it would not be just and proper to send his name to Agency for enlisting and deployment as and when occasion arises. However the committee is of the view that considering the present monthly income of the family of the deceased it would be reasonable to grant one time financial assistance to the dependants of the employee in accordance with Clause 6 of the Notification.”*

Instead of granting the benefit of compassionate appointment, the committee recommended grant of compensation. The report of the committee does not even mention, let alone render any consideration with reference to paragraph 10 of the scheme. There is no consideration by the committee that the financial condition of the corporation is in any way coming in the way of grant of compassionate appointment. In view of the fact that financial stringency is not a ground for rejecting the claim by the committee in its report dated 11.12.2020, we are of the view that such plea could not be taken in the affidavit filed in the writ proceeding. It is a settled proposition of law that when an order is assailed and falls for consideration in a court proceeding, the same has to be considered

with reference to the ground stated therein. In a writ proceeding, the authority cannot be permitted to supplement, or urge new grounds by way of an affidavit which are not to be found in the document falling for consideration. On this ground alone the financial plea is not sustainable.

We thereafter proceeded to consider the communication dated 03.02.2021 issued by the Managing Director. The same also does not refer to any ground of financial stringency or paragraph 10 of the scheme dated 13<sup>th</sup> January, 2011. We, therefore, find no reason for allowing the respondents now to raise an issue regarding financial stringency. Our view is further fortified by the fact that the respondents themselves have granted an appointment on compassionate ground in the year 2023. There is also no dispute that vacancies are existing.

The learned advocate for the appellants has tried to distinguish the present case from the case of Upendra Kumar who was granted the compassionate appointment, but by raising an unsustainable plea that the said appointment was granted to ensure compliance with the orders of the Court in an earlier proceeding. The same does not distinguish the claim of Upendra Kumar with that of the present writ petition. More so in view of the fact that there is no dispute that vacancy exists.

Upon going through the notification/scheme dated 13.1.2011, we find that the rejection of the petitioner's claim is not sustainable. Clause 6 of the notification contemplates granting of one time financial assistance to the dependant seeking benefit of compassionate appointment, but only if a suitable vacancy is not found in the organization. Clause 6 reads as follows:-

*“STUs would like to grand one time financial assistance to the dependent on compassionate ground if suitable vacancy is not found in the organization. The financial assistance would be provided in lieu of appointment as-gratia grant equivalent to –*

- a) 45 days of emoluments for each completed years of continuous service limited to the total emoluments that the employee would have drawn at the prevailing level of emoluments for the residual period of service.*

OR

- b) An amount equivalent to 55 days emoluments for each completed years of continuous service plus 25 days emolument for each remaining years of the residual period of service limited to the total emoluments for the residual period of his service, whichever is higher.*

*For the purpose of payment of ex-gratia grant in terms of the provision the residual period of service means the period of service that the employee would have had but for his death or premature retirement.”*

Since there is no issue regarding non-availability of a suitable vacancy, there was no scope for rejection of petitioner’s claim for appointment on compassionate ground and to grant a monetary compensation in lieu thereof. Rejection of the petitioner’s claim, therefore, was rightly found by the learned Single Judge Bench to be unsustainable. The learned Single Judge Bench therefore, rightly issued the consequential directions contained in the order under appeal.

In view of our consideration above, we find no reason to interfere with the judgment of the learned Single Judge Bench in the writ petition.

The appeal is, accordingly, dismissed.

(MADHURESH PRASAD, J.)

(PRASENJIT BISWAS, J.)