

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**The Hon'ble Mr. Justice Madhuresh Prasad
And
The Hon'ble Mr. Justice Prasenjit Biswas**

W.P.S.T. 85 of 2025

Tanay Mandal & Anr.

Vs.

The State of West Bengal & Ors.

For the petitioners : Ms. Anita Saha.

For the State : Mr. Tapan Kr. Mukherjee, ld. A.G.P.
Mr. Somnath Naskar

Heard on : 17.02.2026

Judgment on : 24.02.2026

Prasenjit Biswas, J.:-

1. Heard the learned advocate for the applicant/writ petitioner and the learned A.G.P.
2. The writ petitioner is son of a Constable, namely, Tapan Mandal, who died while in-harness serving the West Bengal Police Force in the Uttar Dinajpur District. The petitioner's father died on 02.10.1992 in a road accident while he was in service. The wife of the deceased (petitioner's mother) Smt. Jharna Mandal made an application for compassionate appointment on 15.02.1993. She was subjected to physical

W.P.S.T. 85 of 2025

measurement for the purposes of recruitment in the force. In the physical measurement, she could not come up to the requisite measurements and the authorities found a deficiency in height and weight. As the petitioner was facing acute financial hardship with her minor children on account of sudden demise of the bread earner, a decision was taken by the Superintendent of Police, Uttar Dinajpur to enter the name of the petitioner's mother for a Group-D service in the District under the exempted category. For such purpose, her name was entered in the Exempted Category Register to be taken up for consideration as per her turn and suitability. The petitioner's turn would come only in order of seniority of the claim as large number of persons expecting the benefit of compassionate appointment against the limited quota available for such appointment, were waiting in queue. The district police authorities in Uttar Dinajpur, considering the plight of the petitioner's family was recommending that appointment may be offered even in other districts.

- 3.** In view of desperate circumstances, the petitioner's mother again submitted a prayer for enrolment as a lady Constable by condoning the deficiency in her height and weight measurement. The same was forwarded by the District Superintendent of Police, Uttar Dinajpur to the Inspector General of Police (P&W) on 19.12.1997. The police department, however, was of the view that the petitioner's mother's name be retained in the District Exempted Category Register for appointment to a Group-D post as per her turn and suitability.

W.P.S.T. 85 of 2025

- 4.** It appears from the records that despite the desperate situation prevailing, and efforts made by the district police authority, the same could not fructify in a compassionate appointment for the petitioner's mother. Even as late as on 19.01.2001, the petitioner's mother's prayer with a request to absorb her on a Group D post in any police unit in North Bengal Zone, was considered but not allowed as there was no vacancy. The office of the Superintendent of Police, Uttar Dinajpur by a Memo No. 215/RO dated 19.01.2001, found such claim to be unsustainable. Thereafter, the petitioner's mother's name was retained in the Exempted Category Register for appointment on Group D post as and when vacancy occurs, according to her turn and suitability.
- 5.** The records reveal that in the above circumstances, the dependants of the deceased Government employee were persistently and desperately pursuing their claim for compassionate appointment, but to no avail.
- 6.** On 22.06.2006, the writ petitioner's mother wrote to the Superintendent of Police, Uttar Dinajpur sending intimation regarding her suffering with several ailments. Citing her ill health, the petitioner's mother, having waited for nearly 15 years for a compassionate appointment, stated that now she was not in a position to take up an employment in view of the ailments. She thus requested that her son, who by now attained majority be considered for the benefit of compassionate appointment to ameliorate the sufferings of the dependant/family of the deceased Government employee.

W.P.S.T. 85 of 2025

- 7.** Acting on such communication from the petitioner's mother, the present petitioner's case was considered by the authorities and placed before the Three-Member Committee. The Three-Member Committee took note of the entire facts regarding pendency of the claim for compassionate appointment for the last about 15 years. The Committee also considered the letter dated 22.06.2006 submitted by the petitioner's mother stating that she was suffering from several female diseases and expressing her inability to perform Government duty due to ill health. The Committee considered that under such circumstances, she nominated her son (present petitioner) to be appointed on compassionate ground for benefit of the dependants of the government employee.
- 8.** Having considered the entire facts and taking into consideration the facts that the petitioner had crossed 18 years of age, the Three-Member Committee sent the following recommendation :

“Moreover, as per report of I/C Balurghat PS. Dist-Dakshin Dinajpur dated 01/03/2014, it is clear that the family has no other source of income excepting for family pension. Hence, the financial condition of the family of the deceased employee is indigent and deserves immediate financial assistance for relief from financial destitution.

In view of the fact mentioned above, it is unanimously recommended that Tanay Mandal son of Lt. C/167 Tapan Mandal may be enrolled to the post of Constable of W.B. Police on compassionate ground. It is also certified that the proposal of Tanay Mandal son of Lt.

W.P.S.T. 85 of 2025

C/167 Tapan Mandal for compassionate appointment for the post of Constable has duly been re-examined in the light of the comprehensive policy for compassionate appointment 2013 and found satisfactory in all respect towards recommending appointment to the post of Constable.”

9. The petitioner, therefore, was waiting for the grant of benefits, since he had been found eligible and the Three-Member Committee had in unambiguous terms recommended grant of compassionate appointment having regard to the fact that the family had no other source of income except for family pension and that the condition of the family was indigent deserving immediate financial assistance to relief them from financial destitution. The report of The Three-Member Committee is dated 05.09.2014. However, despite the said report having been in existence since 2014, no decision was communicated to the petitioner for nearly a decade. It was only on 09.09.2024 after an unexplained lapse of ten years that the petitioner was served with a communication conveying the Government's regret and its inability to approve his case for appointment under the exempted category. The said communication purports to reject the petitioner's claim in terms of the guidelines contained in Notification No. 251-Emp. dated 03.12.2013 issued by the Labour Department, Government of West Bengal, as amended from time to time. The rejection is founded upon grounds (a), (b), and (d), which are reproduced herein below-

W.P.S.T. 85 of 2025

Under ground (a), it has been stated that the candidate could not attain the eligible age for Government service within the stipulated period of two years from the date of death of the deceased employee.

Under ground (b), reliance has been placed upon Clause 10(aa) introduced by Notification No. 26-EMP dated 01.03.2016, and it has been contended that the said provision is not applicable in the present case as there was an eligible family member on the date of death of the deceased employee.

Under ground (d), it has been alleged that the criteria of immediate financial need of the family, as contemplated under the relevant Labour Department notifications, has not been established.

- 10.** The same was put to challenge by the writ petitioner before the West Bengal Administrative Tribunal ('S.A.T.' for short). The S.A.T. upheld the communication dated 09.09.2024 and disposed of the O.A. No. 484 of 2024 filed by the writ petitioner. The order of the S.A.T. dated 21.03.2025 passed in O.A. No. 484 of 2024 is the subject matter of the present writ petition filed by the petitioner, who was the applicant before the S.A.T.
- 11.** The learned advocate for the writ petitioner submits that the order rejecting the petitioner's claim is unsustainable.

12. The records reveal that earlier the petitioner's mother, and thereafter the petitioner have desperately been pursuing the issue regarding grant of compassionate appointment, being faced with extreme financial destitution. The State was unable to provide the benefit for nearly 15 years. On account of aging and the several ailments which occurred in the meantime, the first applicant (petitioner's mother) expressed her inability to take up the appointment and nominated her son (present petitioner by a communication dated 22.06.2006). It is not that an application for compassionate appointment was made for the first time on 22.06.2006. He further submits that in view of the long delay in grant of benefits by the authorities and the developments in the meantime, beyond the control of the petitioner, the mother became incapable of taking the benefit of a compassionate appointment. The financial destitution, however, continued despite incapability of the mother and therefore, there was no option but for the mother to nominate her son, who by then had acquired majority; and otherwise also was eligible for availing the benefit of compassionate appointment. The grounds (a), (b) and (d) for rejection of petitioner's claim, therefore, are devoid of any substance whatsoever. It is not a case that an application has been made for compassionate appointment for the first time on 22.06.2006. The above noted grounds for rejection, therefore, are unsustainable in fact and in law.

13. Insofar as ground (c) of the rejection is concerned, it is submitted that the petitioner's basic eligibility was considered by the Three-Member Committee in its report dated 25.09.2014. Apart from considering the petitioner's eligibility, the Three-Member Committee viewed the petitioner's candidature in light of the facts preceding petitioner's recommendation by his mother on 22.06.2006. The Three-Member Committee as extracted above, unanimously found a fit case for grant of compassionate appointment, on the ground of financial destitution. The fact that the petitioner's family has somehow managed to survive all these years, therefore, cannot be made a basis to conclude that they did not satisfy the criteria of immediate financial need of the family as contemplated under the Scheme for grant of compassionate appointment.

14. Mr. Mukherjee, on the other hand, submits that an application for the present petitioner was made on 22.06.2006. The family has survived all these years. He further submits that Clause 10 (aa) of 26-Emp. also cannot come to the petitioner's rescue as a belated application may be entertained provided there was no other person eligible at the time of demise of the government employee. In the present case, however, the petitioner's mother was not only alive but she was eligible. Therefore, the rejection of the petitioner's claim as a belated application and for not fulfilling the financial need of criteria requires no interference. He submits that after so many years a claim for compassionate appointment would be unsustainable.

15. In support of his submission, Mr. Mukherjee has relied upon the decision of the Apex Court in the case of ***Debabrata Tiwari & Ors. Vs. The State of West Bengal.***
16. The learned advocate for the petitioner on the other hand submits that the petitioner's claim is covered by a recent decision of the coordinate Bench in ***W.P.S.T. 6 of 2025*** in ***Arjun Kumar Saren Vs. The State of West Bengal & Ors.*** copy of which has been handed over to the Court and the learned A.G.P. He submits that decision in the case of ***Arjun Kumar Saren*** (*supra*) has been implemented by the authorities who have proceeded with candidature of ***Arjun Kumar Saren*** for appointment on compassionate ground in compliance with the decision in the case of ***Arjun Kumar Saren*** (*supra*). He further submits that decision of the Apex Court in the case of ***Debabrata Tiwari*** (*supra*) supports the present petitioner's claim. It cannot be read so as to exclude the petitioner's claim from consideration/grant of a compassionate appointment.
17. At the very outset, it deserves emphasis that immediately upon the untimely demise of the sole breadwinner, the petitioner's mother initiated steps for securing compassionate appointment under the applicable Scheme. Despite repeated representations and persistent follow-up by the petitioner's mother, the State authorities failed to extend the benefit for nearly fifteen long years. The inordinate delay was not attributable to any lapse or inaction on the part of the family; rather, it was a consequence of administrative inaction. The family,

already reeling under financial distress, was thus left in a state of prolonged uncertainty and deprivation.

18.In the interregnum, owing to advancing age and the onset of multiple ailments, the petitioner's mother became physically and medically incapable of undertaking public employment. It was in these compelling circumstances that she, by a communication dated 22.06.2006, expressed her inability to accept appointment and nominated her son the present petitioner for consideration under the Scheme. It is crucial to clarify that 22.06.2006 does not mark the inception of the claim for compassionate appointment. The claim had been initiated much earlier on 15.02.1993 and was continuously pursued. The said communication was merely a consequential step necessitated by supervening circumstances beyond the control of the family.

19.Thus, it cannot be contended that an application for compassionate appointment was made for the first time on 22.06.2006. On the contrary, the original claim subsisted throughout; only the identity of the proposed appointee changed due to the mother's incapacity. The delay in extending the benefit by the authorities directly contributed to the situation where the original applicant became medically unfit to avail the same. The family cannot be penalised for developments that occurred during a period of administrative dormancy.

20.Importantly, the financial destitution that formed the foundation of the claim did not cease merely because the family managed to survive

W.P.S.T. 85 of 2025

in the most minimal and precarious manner. The test under the Scheme is not whether the family managed to remain alive, but whether it was left without adequate means of livelihood following the death of the employee. That condition continued unabated in the present case.

21. Insofar as the ground of rejection is concerned, it is submitted that the petitioner's basic eligibility was duly examined by the duly constituted Three-Member Committee, which submitted its report dated 25.09.2014. The Committee did not confine itself to a superficial scrutiny of eligibility parameters; rather, it comprehensively considered the entire factual background, including the circumstances leading to the nomination dated 22.06.2006. After such consideration, the Committee found the case to be fit for grant of compassionate appointment on the ground of persistent financial distress.

22. The recommendation of the Three-Member Committee, therefore, reflects a conscious and reasoned evaluation of both eligibility and need. Once the competent Committee, upon examining the relevant materials, arrived at a finding that the petitioner satisfied the criteria under the Scheme and that the family continued to suffer financial destitution, it would be wholly arbitrary to reject the claim on the simplistic premise that the family had "somehow managed" to survive.

23. The mere passage of time particularly when attributable to administrative delay cannot be invoked to defeat the very purpose of

the Scheme. To do so would amount to allowing the State to take advantage of its own inaction. The continued financial vulnerability of the petitioner's family, coupled with the Committee's affirmative recommendation, clearly establishes that the case falls within the ambit and spirit of the Scheme for compassionate appointment.

24. The compassionate appointment is conceived as an exception to the general rule of recruitment through open competition. The fundamental object and purpose of compassionate appointment is not to create a parallel mode of public employment, nor to confer a vested right upon any individual, but to provide immediate financial relief to the bereaved family so that it may tide over the crisis precipitated by the unexpected death of the earning member. The scheme thus operates as a welfare measure, intended to prevent destitution and penury, and to secure the survival and basic dignity of the family of the deceased employee.

25. Under Scheme No. 251-Emp., compassionate appointment is envisaged in favour of a person who answers the description of a "dependent family member" within the meaning of Clause 3 thereof. The emphasis of the scheme is not on an individual in isolation, but on the family as a unit, which is the real and intended beneficiary. Clause 11 further reinforces this principle by requiring the appointee to furnish a yearly undertaking that he or she shall properly maintain the other dependent family members of the deceased Government employee. This stipulation makes it abundantly clear that the

W.P.S.T. 85 of 2025

appointment is granted not for the personal benefit of the appointee alone, but to secure the continued welfare and sustenance of the entire dependent family.

26. In the present case, it is not in dispute that the financial condition of the family was duly assessed by the competent authority and the family of the deceased Government employee was found to be in financial distress and deserving of compassionate appointment. The eligibility criteria and financial need were examined and satisfied. Thus, the foundational requirement under the Scheme stood fulfilled. Admittedly, the widow of the deceased Government employee being the first eligible dependent was unable to take up the appointment due to ailments. The continuity of the family's entitlement under the Scheme is fortified by report of the three member committee. Since the scheme itself contemplates appointment of any eligible dependent family member as defined in Clause 3, and since the benefit is intended for the sustenance of the family as a whole, the incapacity of one dependent cannot extinguish the family's entitlement.

27. The real issue, therefore, is whether the family already adjudged to be in financial distress and entitled to compassionate appointment should be deprived of the benefit solely because the widow, who was initially considered, became unable to accept the appointment due to her ill health. In our opinion, such a consequence would be wholly unjust and contrary to the spirit and object of the Scheme.

28. To deny the benefit in these circumstances would amount to frustrating the very purpose for which the compassionate appointment scheme was framed. The Scheme aims to alleviate hardship arising out of the death of the Government employee. If the family, despite being found deserving, is deprived of the benefit due to circumstances beyond its control, such as illness or death of the widow during the prolonged processing of the claim, the objective of the Scheme would stand defeated. Administrative delay or supervening events affecting one dependent cannot be permitted to nullify the family's substantive entitlement once the criteria of financial distress and eligibility have been satisfied. Furthermore, Clause 11 underscores that the appointee is under an obligation to maintain other dependent family members. This demonstrates that the appointment is integrally linked to the welfare of the entire family. The Scheme, therefore, must be interpreted purposively, so as to advance its remedial objective rather than to defeat it on technical or hyper-technical grounds.

29. In the facts of the present case, the family had already been assessed and found entitled to the benefit. Any lapses, delay, or inaction on the part of the respondent authorities cannot operate to the prejudice of the bereaved family. It would be manifestly arbitrary and inequitable to hold that the family, having once been adjudged deserving, stands divested of the benefit due to circumstances not attributable to it.

- 30.** Accordingly, the family of the deceased Government employee, being the true beneficiary under Scheme 251-Emp., cannot be deprived of compassionate appointment merely because the widow was unable to accept the offer for her illness. To hold otherwise would render the Scheme illusory and defeat its beneficent purpose. The petitioner, being otherwise eligible under the Scheme and belonging to the dependent family unit already found to be in financial distress, is entitled to consideration in accordance with law, and the benefit cannot be denied.
- 31.** In view of the above, the rejection of the petitioner's claim is unsustainable in law and in equity, and that the long-standing and bona fide pursuit of the benefit by the family, culminating in the nomination dated 22.06.2006, is in continuation of the original claim, rather than as a fresh or belated application.
- 32.** The order of rejection dated 09.09.2024, impugned before the SAT, is, therefore, unsustainable and is hereby quashed.
- 33.** The authorities should consider and process the petitioner's claim and offer appointment on compassionate ground to the petitioner subject to fulfillment of norms/ medical examination, verification role, etc. as required under the Rules. Since financial status of the family has already been eligible, we direct the entire process to be completed within 3 months from the date of receipt/ production of a copy of this order.

34. The writ petition is allowed. Pending applications, if any, stand disposed of. The original Application O.A. 484 of 2024 also stands allowed.

35. There will be no order as to costs.

36. Parties will be at liberty to get urgent certified copy of this judgment and order upon fulfillment of all necessary formalities and payment of requisite court fees.

I agree.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)