

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
Appellate Side

Present:

The Hon'ble Justice Shampa Sarkar

And

The Hon'ble Justice Ajay Kumar Gupta

MAT 646 of 2025

With

CAN 1 of 2026

Jamal Molla

Vs.

The State of West Bengal & Ors.

For the Appellant	:	Mr. Biswarup Biswas, Adv. Md. Mojnu Sk., Adv.
For the K.M.C.	:	Mr. Alak Kr. Ghosh, Adv. Mr. Arijit Dey, Adv.
Reserved on	:	14/08/2026
Judgment delivered on	:	18/08/2026
Judgment uploaded on	:	18/08/2026

Ajay Kumar Gupta, J.:-

1. This is an intra-court appeal, directed against the Judgment and Order dated 28.02.2025, passed by the Hon'ble Single Judge in WPA No. 15961 of 2024.
2. By the said impugned order, the learned Single Judge dismissed the writ petition filed by the appellant, inter alia, observing that, although Class-VIII qualification may not be a strict requirement for appointment to a Group-D post under the died-in-harness category, the appellant's conduct in relying on a forged certificate could not be overlooked. His Lordship further noted that the appellant had approached the Court only in 2019, i.e., twelve years after his father's death. Delay defeated the very purpose of compassionate appointment. Compassionate appointments were granted to overcome the immediate financial distress that the family faced, upon the death of the sole bread earner.
3. The brief facts, essential for the purpose of disposal of this appeal, are as under: -
 - a. The father of the appellant was working as a Mazdoor in the Kolkata Municipal Corporation (KMC). He died in harness on February 25, 2007. According to the appellant, the family was fully dependent on the income of the father. After the death of the father, the appellant made an application on April 12, 2007 before the Deputy Personnel Officer, Division IVC, KMC, praying for compassionate appointment.

- b.** The appellant claimed to be a student of Bibhuti Bhusan Vidyamandir under Police Station – Chakdaha, District – Nadia, and of having studied up to Class VIII and thereafter promoted to Class IX. The appellant further claimed to have been admitted to Class IX in another school i.e. Baidyapur Ramkrishna Vidyapith (HS), which was a recognised institution. The institution was situated under Kalna Police Station, within the District of Purba Bardhaman. The appellant enclosed the transfer certificate issued by Bibhuti Bhusan Vidyamandir, in support of his educational qualification. The appellant, however, did not enclose the certificate issued by the said Baidyapur Ramkrishna Vidyapith. The prayer of the appellant was considered on the basis of the school leaving certificate of Bibhuti Bhusan Vidyamandir. The appellant's prayer for compassionate appointment was rejected on July 21, 2014, on the ground that the school leaving certificate of Bibhuti Bhusan Vidyamandir was found to be false.
- c.** Aggrieved by the said rejection order, the appellant filed WPA No. 11922 of 2019. The said writ petition was finally heard by a learned Single Judge. By an order dated January 15, 2024, the order of rejection dated July 21, 2014, passed by the Deputy Personnel Officer, Division IVC, was set aside, with an observation that, as the school leaving certificate of Baidyapur Ramkrishna Vidyapith (HS) had never been produced before the authority, the authority must consider the matter on the basis of the appellant's representation dated November 27, 2015 and

the school leaving certificate of Baidyapur Ramkrishna Vidyapith. Again, KMC rejected the prayer for appointment of the appellant on February 28, 2024.

- d. The appellant challenged the order dated February 28, 2024, by filing WPA 15961 of 2024, on the ground that, although the transfer certificate issued by the Bibhuti Bhusan Vidyamandir was issued by an unrecognised school, but Baidyapur Ramkrishna Vidyapith (HS), was a recognised institution and the certificate issued by the said school should have been accepted by the KMC while considering the matter afresh, as per the direction passed in WPA No. 11922 of 2019. It was further alleged that no minimum educational qualification was essential for appointment as a Group – D staff.
- e. It was urged that the objection raised by KMC regarding production of a false certificate was baseless, and was taken only to deny appointment to the appellant, without any valid reason. The appellant had been running from pillar to post since 2014. He applied for appointment in the died-in-harness category within the stipulated time, but KMC disposed of the matter with the first rejection after seven years. The learned Single Judge wrongly held that the appellant approached the court belatedly.

SUBMISSIONS ON THE BEHALF OF APPELLANT:

- 4. Learned counsel appearing on behalf of the appellant submitted that the learned Single Judge wrongly held that application for compassionate

appointment was made after 12 years. The family of the deceased had not overcome the financial distress. The appellant had applied for appointment within the stipulated period, i.e., on April 12, 2007. As such, the delay could not be attributed to the appellant. The appellant's representation was initially rejected by the KMC after seven years on July 21, 2014. The said rejection was challenged before the High Court by filing a writ petition. The said writ petition was finally heard by a learned Single Judge in 2024 and the contentions of KMC regarding submission of a forged transfer certificate was disregarded by the writ court. The court directed KMC to reconsider the appellants' claim for appointment on the basis of the school leaving certificate issued by the recognised school.

5. It was further contended that, for appointment to a Group-D post, no educational qualification had been prescribed. The appellant was to be appointed under the died-in-harness category. The learned Judge failed to consider the actual case of the appellant and dismissed the writ petition.
6. Learned counsel further contended that, the appellant had actually studied up to class VIII in Bibhuti Bhusan Vidyamandir and obtained a transfer certificate. He could not place the certificate of class IX before the authority although he had attended class IX in a recognised school i.e. Baidyapur Ramkrishna Vidyapith (HS). The authority had rejected the prayer presuming that the certificate issued by Bibhuti Bhusan

Vidyamandir was false as the school was not recognised. There was urgent need for appointment of the appellant to support the family members.

7. Learned counsel for the appellant placed reliance of the following decisions:-

1. **Chittoori Subbanna v. Kudappa Subbanna & Ors.**¹, particularly paragraphs 7 and 56.
2. **Union of India v. Ashok Kumar Agarwalla**², particularly paragraph 32.
3. **M/s M.J. Exporters Pvt. Ltd. v. Union of India & Ors.**³, particularly paragraphs 9 and 10.
4. **Pancham Chand & Ors. v. The State of Himachal Pradesh & Ors.**⁴, particularly paragraph 24.
5. **Makardhwaj Ram v. Jagadish Rai & Anr.**⁵, particularly paragraph 8.3.
6. **Malaya Nanda Shetty v. The State of Orissa & Ors.**⁶, particularly paragraphs 2, 8, and 9.
7. **Radharam Bouri v. Provat Kumar Das & Ors.**⁷, particularly paragraphs 3, 4, and 5.
8. **Airport Authority of India & Ors. v. Provash Besai & Anr.**⁸, particularly paragraphs 44, 45, and 46.

¹ AIR 1965 SC 1325

² (2004) 2 CHN 498

³ (2021) 3 SCC 543

⁴ (2021) 7 SCC 117

⁵ 2026 SCC OnLine SC 1112

⁶ AIR 2022 SC 2836

⁷ 2022 SCC OnLine Cal 3843

⁸ 2025 SCC OnLine Cal 1375

SUBMISSIONS ON BEHALF OF THE KMC:

8. In reply, learned counsel appearing on behalf of the KMC vehemently opposed the prayer for appointment on compassionate ground. Mr. Ghosh submitted that, pursuant to the order dated January 15, 2024, passed by another learned Single Judge in WPA No. 11922 of 2019, the matter was taken up for reconsideration, and after affording full opportunity of hearing to the appellant, by an order dated 28.02.2024, the Additional Municipal Commissioner, KMC rejected the prayer of the appellant on several grounds. The appellant did not disclose his actual qualification. He took different stands at different times. Initially, in 2014 he claimed that he could only read and write. In the year 2015, he submitted that he attended school and read up to class VIII in Bibhuti Bhusan Vidyamandir and placed a certificate issued by the said school. The school was not recognized and the certificate was found to be false. In the year 2019, the appellant suddenly submitted another certificate contending that, he attended Baidyapur Ramkrishna Vidyapith (HS) in class IX. The certificate was produced before the High Court for the first time in 2019 and was issued after the order of first rejection. The High Court directed the authority to reconsider the claim upon allowing the appellant to produce necessary documents. The appellant was unable to satisfy the authority with regard to the genuineness of the certificate issued by Bibhuti Bhusan Vidyamandir. The appellant did not approach the authority with clean hands and truthfulness.

9. Compassionate appointment was not a fundamental or a legal right. Therefore, the prayer for appointment in the died-in-harness category could not be allowed to a person who tried to mislead the authority. The appellant tried to deceive the authorities. The High Court did not allow his prayer, but merely directed re-consideration. The appellant could not be granted appointment on account of his untruthful approach. The appeal was liable to be dismissed.

DISCUSSION AND FINDINGS: -

10. Having heard learned counsel representing the respective parties and upon perusal of the materials on record, we are of the considered view that the appellant failed to make out a case for compassionate appointment. The learned Single Judge rightly rejected the prayer on the ground that compassionate appointments were intended to alleviate the immediate financial distress faced by the family of a deceased employee, upon the demise of the sole bread earner. As per the records available, the appellant claimed for appointment on April 12, 2007, which would commensurate with his educational qualification. His prayer was rejected on the ground that the transfer certificate was false/forged. Thereafter, the second rejection was on the ground that the appellant lacked credibility as his stand continued to shift. The writ petition was dismissed with the following observations :-

“This reasoning highlights that the rejection of the certificate purportedly issued by Baidyapur Ramkrishna Vidyapith was due to the petitioner’s inconsistent claims. As the petitioner’s Class-VIII pass certificate was found to be fraudulent, the claim

regarding his studies at Baidyapur Ramkrishna Vidyapith becomes irrelevant.

While there may be some merit in the petitioner's argument that Class-VIII is not a requisite qualification for a Group-D post, the petitioner's conduct cannot be disregarded. The petitioner attempted to rely on a forged certificate in support of his prayer for compassionate appointment. Furthermore, it is notable that the petitioner first approached this Court seeking compassionate appointment in 2019, twelve years after his father's death. Compassionate appointments are intended to alleviate the immediate financial distress faced by the family of a deceased employee, and the delay in this case negates the urgency typically required for such prayer.

In light of the aforementioned considerations, I am not inclined to grant the petitioner's prayer for compassionate appointment. Accordingly, the prayer for compassionate appointment is rejected.”

11. This is the second round of challenge to the order of rejection. Almost 20 years have passed since the death of the appellant's father.

12. In the matter of ***Canara Bank vs Ajithkumar G.K.***⁹, the Hon'ble Apex Court held as follows:-

“11.

a) Appointment on compassionate ground, which is offered on humanitarian grounds, is an exception to the rule of equality in the matter of public employment.

* * *

c) Compassionate appointment is ordinarily offered in two contingencies carved out as exceptions to the general rule, viz. to meet the sudden crisis occurring in a family either on account of death or of medical invalidation of the breadwinner while in service.

d) The whole object of granting compassionate employment by an employer being intended to enable the family members of a deceased or an incapacitated employee to tide over the sudden financial crisis, appointments on

⁹ 2025 INSC 184

compassionate ground should be made immediately to redeem the family in distress.

j) An application for compassionate appointment has to be made immediately upon death/incapacitation and in any case within a reasonable period thereof or else a presumption could be drawn that the family of the deceased/incapacitated employee is not in immediate need of financial assistance. Such appointment not being a vested right, the right to apply cannot be exercised at any time in future and it cannot be offered whatever the lapse of time and after the crisis is over.”

13. In this case, after the first rejection in 2014, the appellant remained silent for five years and filed the writ petition in 2019.

14. In the matter of **General Manager, State Bank of India vs Anju**

Jain¹⁰, the Hon’ble Apex Court held as follows:-

“**31.** We are of the view that both the courts were wrong in granting relief to the writ petitioner. Appointment on compassionate ground is never considered a *right* of a person. In fact, such appointment is violative of rule of equality enshrined and guaranteed under Article 14 of the Constitution. As per settled law, when any appointment is to be made in Government or semi-government or in public office, cases of all eligible candidates must be considered alike. That is the mandate of Article 14. *Normally*, therefore, the State or its instrumentality making any appointment to public office, cannot ignore such mandate. At the same time, however, in certain circumstances, appointment on compassionate ground of dependants of the deceased employee is considered inevitable so that the family of the deceased employee may not starve. The primary object of such scheme is to save the bereaved family from sudden financial crisis occurring due to death of the sole bread earner. It is thus an *exception* to the general rule of equality and not another independent and parallel source of employment.”

¹⁰ (2008) 8 SCC 475

15. The emphasis is on the sudden financial hardship that dawns on the family. In this case, the sense of immediacy is lost.

16. In the matter of ***Shiv Kumar Dubey vs State of U.P.***¹¹, the Allahabad High Court held as follows:-

“29. Where a long lapse of time has occurred since the date of death of the deceased employee, the sense of immediacy for seeking compassionate appointment would cease to exist and this would be a relevant circumstance which must weigh with the authorities in determining as to whether a case for the grant of compassionate appointment has been made out.”

17. In the matter of ***Director of Education (Secondary) and Anr. v. Pushpendra Kumar & Ors.***¹², the Hon’ble Apex Court held as follows:-

“8. The object underlying a provision for grant of compassionate employment is to enable the family of the deceased employee to tide over the sudden crisis resulting due to death of the bread-earner which has left the family in penury and without any means of livelihood. Out of pure humanitarian consideration and having regard to the fact that unless some source of livelihood is provided, the family would not be able to make both ends meet, a provision is made for giving gainful appointment to one of the dependants of the deceased who may be eligible for such appointment. Such a provision makes a departure from the general provisions providing for appointment on the post by following a particular procedure.”

18. In the matter of ***Bhawani Prasad Sonkar vs. Union of India and Ors.***¹³, the Hon’ble Apex Court held as follows:-

¹¹ 2014 (2) ADJ 312

¹² (1998) 5 SCC 192

¹³ (2011) 4 SCC 209

“15. Now, it is well settled that compassionate employment is given solely on humanitarian grounds with the sole object to provide immediate relief to the employee's family to tide over the sudden financial crisis and cannot be claimed as a matter of right. Appointment based solely on descent is inimical to our constitutional scheme, and ordinarily public employment must be strictly on the basis of open invitation of applications and comparative merit, in consonance with Articles 14 and 16 of the Constitution of India. No other mode of appointment is permissible. Nevertheless, the concept of compassionate appointment has been recognised as an exception to the general rule, carved out in the interest of justice, in certain exigencies, by way of a policy of an employer, which partakes the character of the service rules. That being so, it needs little emphasis that the scheme or the policy, as the case may be, is binding both on the employer and the employee. Being an exception, the scheme has to be strictly construed and confined only to the purpose it seeks to achieve.”

- 19.** In the prescribed format that was submitted, the appellant claimed himself to be Class VIII pass. A transfer certificate (T.C.) dated June 16, 1998 issued by Bibhuti Bhusan Vidyamandir was attached to the application. The verification letter addressed to the headmaster of the said school dated November 23, 2014 returned on December 1, 2012 with the postal remark that the school did not exist. On February 4, 2013, reports from the school were received by post, although KMC's letter addressed to the headmaster was returned. The headmaster could not have sent reports without receiving any requisition from KMC. On November 11, 2013, Dy. Secretary (General), West Bengal Board of Secondary Education KMC informed that, no school under the name of, Bibhuti Bhusan Vidyamandir, Doardanga was recognised by the Board.
- 20.** The Special Regulation Committee of KMC in its 24th meeting dated May 22, 2014, rejected the appellant's claim on the ground of submission of

false school leaving certificate. Under Memo No. P/439/IVC/14-15 dated 21.07.2011, such decision was communicated to the appellant.

- 21.** On November 18, 2014, the appellant claimed that he was in fact literate and declared that he could only read and write. On November 27, 2015, he claimed that he read up to Class VIII. On August 30, 2017, he reiterated that he attended Bibhuti Bhusan Vidyamandir, Doardanga. On September 13, 2018, he claimed for a job of Mazdoor, and in the year 2019, he submitted before the High Court that he attended class IX in Baidyapur Ramkrishna Vidyapith, Baidyapur, Kalna, Purba Bardhaman. Thus, the stand of the appellant was inconsistent all through.
- 22.** The findings of the authority confirm the shifting stand of the appellant. Thus, the prayer was once again rejected.
- 23.** We find that the appellant did not approach the authority with the correct facts and relied on a certificate which was found to be false and issued under suspicious circumstances.
- 24.** The record demonstrates that the appellant failed to provide clarity with regard to his educational qualifications, and instead furnished a number of representations regarding his claim over several years. From an initial declaration of literacy, to a claim of having studied up to Class VIII at a school later found by the West Bengal Board of Secondary Education to have no record of existence, to the production of a further certificate from another school placed for the first time before the single bench in 2019, the appellant pursued the matter. Such conduct disentitles the appellant

from being awarded appointment on compassionate grounds as he had not acted in a bona fide manner. The authority decided that the appellant did not deserve preferential treatment upon humanitarian considerations.

25. Each of these successive claims surfaced only after the preceding one was proved to be unsustainable.
26. It is a settled proposition of law that a person invoking the writ jurisdiction under Article 226 must approach the Court with clean hands, and that suppression or misstatement of material facts disentitles him to a discretionary relief, regardless of the underlying merits of his claim.
27. The Hon'ble Apex Court in ***Prestige Lights Ltd. vs. State Bank of India***¹⁴, has held that a prerogative remedy is not available as a matter of course. In exercising extraordinary power, a writ court must indeed bear in mind the conduct of the party which is invoking such jurisdiction. If the applicant does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the court, the court may dismiss the action without adjudicating the matter. It was held thus:

“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is

¹⁴ 2007 AIR SCW 5350

suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

28. In *Udyami Evam Khadi Gramodyog Welfare Sanstha and Another vs. State of Uttar Pradesh and Others*¹⁵, the Hon’ble Apex Court has reiterated that, writ remedy is an equitable one and a person approaching a superior court must come with a pair of clean hands. Such person should not suppress any material fact and should not take recourse to legal proceedings over and over again which amounts to abuse of the process of law.

29. In *K.D. Sharma v. Steel Authority of India Limited and Others*¹⁶, it was held thus:

“34. The jurisdiction of the Supreme Court under Article 32 and of the High Court under Article 226 of the Constitution is extraordinary, equitable and discretionary. Prerogative writs mentioned therein are issued for doing substantial justice. It is, therefore, of utmost necessity that the petitioner approaching the writ court must come with clean hands, put forward all the facts before the court without concealing or suppressing anything and seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the court, his petition may be dismissed at the threshold without considering the merits of the claim.

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39. If the primary object as highlighted in *Kensington Income Tax Commrs.(supra)* is kept in mind, an applicant who does not come with candid facts and “clean breast” cannot hold a writ of the court with “soiled hands”. Suppression or concealment of material

¹⁵ 2007 AIR SCW 7656

¹⁶ (2008) 12 SCC 481

facts is not an advocacy. It is a jugglery, manipulation, manoeuvring or misrepresentation, which has no place in equitable and prerogative jurisdiction. If the applicant does not disclose all the material facts fairly and truly but states them in a distorted manner and misleads the court, the court has inherent power in order to protect itself and to prevent an abuse of its process to discharge the rule nisi and refuse to proceed further with the examination of the case on merits. If the court does not reject the petition on that ground, the court would be failing in its duty. In fact, such an applicant requires to be dealt with for contempt of court for abusing the process of the court.”

30. We do not find any substance in the submission of the appellant that, the order passed in the second writ petition closed the issue of production of a false transfer certificate. The order, on its own terms, directed reconsideration in the light of the transfer certificate of another school. The order did foreclose examination of the genuineness of the first certificate. The issue was reopened. The facts were re-examined and fullest opportunity was granted to the appellant to place his case. The allegation of the appellant of being vexed twice, does not apply to the facts of the case. The appellant had successive opportunities. First, before KMC in 2014, then before the writ Court in 2019, and again before KMC in 2024. He failed to establish his claim. By such time the financial crisis, if any, had been overcome and the family has been able to survive for 20 years after the death of the employee. The decision of ***Makardhwaj Ram (supra)*** does not apply.
31. On the submission of the appellant that passing class VIII was not a mandatory requirement for appointment to a Group-D post under KMC, we find no reason to disturb the finding of the learned Single Judge, who

accepted this submission. However, this finding does not assist the appellant, since the impugned judgment did not rest on any failure to meet a qualification requirement. It rested on the appellant's conduct in placing a document before the authority which was not found to be genuine.

32. In ***Chittoori Subbanna (Supra)***, the procedural principle urged was whether a pure question of law could be raised for the first time at the appellate stage. The decision is not relevant, given the fact that the legal point which the appellant argues is that, class VIII qualification is not mandatory for appointment to a group D post and the ground for rejection of the appellant's claim was unsustainable in law. The ground for rejection was in practising falsehood and not lack of qualification.
33. ***M/S M.J. Exporters Pvt. Ltd. (Supra)***, reinforces the principle that unexplained delay in approaching the Court is fatal to a claim, and does not assist the appellant.
34. The appellant's reliance on ***Pancham Chand (Supra)***, reiterates the principle that an authority's order cannot later be validated by fresh reasons introduced through affidavit or submissions. This does not assist the appellant on the facts of this case. A perusal of the order dated February 28, 2024, shows that the grounds relied upon by KMC in rejecting the claim of the appellant was the inconsistent stands of the appellant in 2014, 2015 and 2019, and his failure to establish the

genuineness of the certificate issued by Bibhuti Bhusan Vidyamandir. The ground for rejection always remained the same.

35. ***Radharam Bouri (Supra)*** involved a claimant who had already been appointed and had retired. The dispute was confined to whether pensionary benefits could be denied over a certificate in respect of a qualification found unnecessary for the post. The court was protecting accrued retiral benefits rather than, allowing a claim for appointment on disputed documents. ***Airport Authority of India v. Pravat Besai (Supra)*** involved a wrongful denial of appointment. No forged or disputed documents were involved. The Court's direction for immediate appointment, addressed an arbitrary exclusion of an otherwise-eligible claimant. A scenario materially unlike the present case, where the denial stems directly from the appellant's own reliance on an unauthenticated certificate and shifting claims as to his educational qualification.
36. For the aforesaid reasons, even if the initial delay in disposal of the claim of the appellant was attributable to KMC, there is no infirmity in the ultimate conclusion reached in the impugned order of rejection, given the appellant's conduct and inconsistency regarding his educational qualification. He did not approach the authority with clean hands. His reliance on a certificate, the genuineness of which he was unable to establish, disentitled him for any humanitarian consideration. The right to compassionate appointment was denied on the ground of falsification of documents and for misleading the authorities.

- 37.** Accordingly, **MAT 646 of 2025** is **dismissed**. **CAN 1 of 2026** is also, thus, disposed of.
- 38.** Urgent photostat certified copy of this Judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

I Agree.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)