

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No – OA 75 OF 2018

BIRJA DEVI & ANR. Vs The State of West Bengal & Ors.

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p>1 23.03.2018</p>	<p>For the Applicant : Mr. Nirbanesh Chatterjee Learned Advocate</p> <p>For the Respondents: Mr. Bijoy Krishna Ray Learned Advocate</p> <p>The applicants have prayed for quashing of the order communicated to the applicant No. 2 by the respondent No. 3 on October 19, 2016 (Annexure “A-10” to the original application) and other ancillary reliefs.</p> <p>The contention of the applicants is that one Bisheshar Tiwari died on March 20, 2005 while he was working as Constable under Muchipara Police Station in Kolkata. Bisheshar Tiwari died while in service leaving behind the applicant No. 1 as his wife, one Shaktinath Tiwari as his elder son, one Mira Devi as his daughter and the applicant No. 2 as his younger son. The further contention of the applicants is that the applicant No. 2 was about 12 years old at the time of death of his father. He submitted application for compassionate appointment on attaining majority. The applicant No. 2 participated in the physical measurement test for being enrolled as a candidate for exempted category for appointment in the</p>	

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	<p>post of Constable. Ultimately, on October 19, 2016 the respondent No. 3 communicated to the applicant that his case for appointment under exempted category is rejected on the basis of guidelines contained in the notification No. 251-Emp dated December 3, 2013 issued by the Labour Department, Government of West Bengal.</p> <p>Learned Counsel for the applicant contends that the Labour Department Notification dated December 3, 2013 is not applicable in case of appointment of the applicant No. 2 on compassionate ground. He further submits that the elder brother of the applicant No. 2 was 22 years old at the time of death of his father, but he is self-employed for doing work of agriculture in the landed property and he is living separately and as such, he did not submit any application for compassionate appointment. On the other hand, Learned Counsel representing the State respondents has produced statement of facts from the respondent No. 3 and submitted that there was no immediate need of employment in the family of the deceased employee after the death of Bisheshar Tiwari and as such, the application of the applicant No. 2 for compassionate appointment was rejected.</p>	

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	<p>Having heard Learned Counsel representing both parties and on consideration of the facts of the present case, we find that the elder son of the deceased employee was 22 years old at the time of death of Bisheshar Tiwari. Had there been acute financial crisis in the family of the deceased employee, the elder son of the deceased employee being eligible to get the appointment on compassionate ground, would have filed application praying for compassionate appointment. In the absence of filing of an application by the elder son of the deceased employee for compassionate appointment, we find justification in rejection of prayer of the applicant No. 2 by the respondent No. 3. We are unable to accept the contention made on behalf of the applicant that the elder son of the deceased employee is living separately and employed in the agricultural work in the landed property, as no cogent evidence in this regard is placed on behalf of the applicant. Even if we take for argument's sake that the case of the applicant No. 2 will not be governed by Labour Department notification dated December 3, 2013, the case of the applicant for compassionate appointment cannot be considered on the basis of other notifications of the Labour Department, Government of West Bengal which were in force at the time of death of father of the</p>	

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SCN.	<p>applicant No. 2 on the ground that there was no acute financial crisis in the family of the deceased employee at the relevant point of time.</p> <p>In view of our above findings, we do not find any merit in the application. As a result, the original application is dismissed.</p> <p>Let a plain copy of the order be supplied to the both parties.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(R.K. Bag) MEMBER (J)</p>	