

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. –MA 12 of 2021 [OA 173 of 2020]

Sukul Murmu - **VERSUS** - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mrs. S. Agarwal,
and Ld. Advocate.
Date of order For the State Respondent : Mr. M.N. Roy,
05 Ld. Advocate.
02.09.2021

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24th December, 2020 and 456-WBAT/2J-15/2016 dated 16th July, 2021 issued in exercise of the powers conferred under Section 6 (5) of the Administrative Tribunals Act, 1985.

The instant MA has been filed praying for condonation of delay in filing the original application. According to the applicant, his father died on 06.02.1999. Subsequently, the mother of the applicant applied for compassionate appointment in favour of the applicant on 12.07.1999 (Annexure-P1). Therefore, the concerned authority forwarded the case of the applicant for final consideration. However, vide communication dated 29.05.2017 as well as 21.06.2017, the respondent authority had rejected the case of the applicant on the ground that he did not apply for compassionate appointment in prescribed format within the stipulated period of time as per the Circular. As per the applicant, his mother had applied in plain paper within prescribed period of time. Therefore, he made repeated representations before the Authority for reconsideration of his case. Therefore, there is some delay in filing the original application. During the course of the hearing, the counsel for the applicant has further submitted that the applicant has arguable case in his favour. Therefore, the delay may be condoned. Further, the counsel for the applicant has referred order dated 05.12.2018 passed in OA-664 of 2016, wherein it has been held that if the applicant applied for compassionate appointment in plain paper application within prescribed time limit, the case of the applicant cannot be rejected on the ground that he did not submit the application for compassionate appointment in prescribed format within stipulated period of time as he has no control over the

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same. Therefore, the counsel for the applicant has submitted that it would suffice the purpose of the applicant if the respondent authority would be directed to reconsider his case as per rules after condoning the delay. The counsel for the respondent has submitted that the respondent has rejected the case of the applicant on the basis of the Circular.

Heard both the parties and perused the records.

It is noted that the father of the applicant died on 06.02.1999 and the mother of the applicant applied for compassionate appointment in favour of the applicant on 12.07.1999. However, the respondent authority had rejected the case of the applicant on the ground that he did not submit the prescribed format within six months vide communication dated 29.05.2017 as well as 21.06.2017. From the above, it is clear that though the mother of the applicant had submitted application for compassionate appointment within six months, however, the case of the applicant was rejected in 2017 only. Therefore, I condone the delay.

Accordingly, the MA is **allowed**.

Further, with regard to the impugned order, it is noted that the case of the applicant was rejected on the ground that he did not submit the application within prescribed pro-forma within six months time. In this regard, this Tribunal had already held that if the applicant had applied within time in plain paper, then the respondent could not reject his application on the ground of non-submitting in prescribed format within time as the applicant has no control of supply of prescribed format.

In view of the above, I quash and set aside the impugned orders/communications dated 29.05.2017 and 21.06.2017 and remand back the matter to the Secretary to the Government of West Bengal, Department of Agriculture for reconsideration of the case of the applicant as per Rules/Circulars and Laws and communicate his decision within a period of six months from the date of receipt of the order by way of a reasoned and speaking order.

ORDER SHEET

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Accordingly, both the MA and OA are **disposed of**.

Since for circumstances beyond control, the Registry is unable to furnish plain copies of this order to the learned advocates for the parties, the Registry is directed to upload this order on the website of the Tribunal forthwith and parties are directed to act on the copies of the order downloaded from the website.

Mrs. URMITA DATTA (SEN)
MEMBER (J)

SS/CSM