

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

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

**Case No. OA – 1075 of 2017**

**Ashok Kumar Mahata - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. D. Sur, Advocate
<u>3</u> 10.05.2022	For the Respondents	: Mrs. S. Agarwal, Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 118-WBAT/1E-08/2003 (Pt. – II) dated 11<sup>th</sup> February, 2022 issued in exercise of the powers conferred under Section 6(5) of the Administrative Tribunals Act, 1985.

With the consent of both the parties, the matter has been taken up for hearing.

The instant application has been filed praying for following relief(s):

***“(a) Your Lordships pass an order directing the Respondent No. 1 to show cause as to why an order dated 30.10.2017 issued by the Respondent authorities, should not be set aside or quashed or to make appointment on compassionate ground to the applicant.***

***(b) Direction upon the Respondent No. 1 to take steps on sympathetic ground to appoint your applicant on compassionate ground according to the service rules.***

***(c) To pass such order or orders, direction or directions may deem fit and proper to the Hon'ble Tribunal.”***

As per the counsel for the applicant, his father died on 21.03.2009. He has approached the authority on 02.05.2013 by way of submitting pro-forma application. Subsequently, his prayer was rejected vide order dated 16.12.2015 which was communicated to him on 19.07.2016. Thereafter, he had again made representation. Subsequently, his case was again rejected vide order dated

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30.11.2017. Being aggrieved with, he has filed the instant application.

The counsel for the respondent has submitted that vide Memo dated 16<sup>th</sup> December, 2015, the case of the applicant was rejected on following ground:

***“(i) Applied almost after 4 years from the date of death.***

***(ii) Gross Family Income is not below 90% of the Last Salary drawn.***

***(iii) Caste Certificate produced is not issued by Govt. of W. Bengal.”***

The decision taken by the highest authority by approval of the Principal Secretary as well as MIC as would be evident from the order dated 16.12.2015.

She has further drawn my attention to the application dated 02.05.2013 and to submit that admittedly the applicant approached before the authority after 4 years time and the applicant even did not challenge the order dated 16<sup>th</sup> December, 2015, which was communicated vide Memo dated 19.07.2016. It has been submitted by the counsel for the respondent that after the aforesaid rejection order, it would be evident that the applicant could have survive without any financial assistance for 4 years from the death of his father. Further he is also not fulfilling the other criteria of the Labour Department such as his Gross Family Income is not below 90% of the Last Salary drawn as well as Cast Certificate produced by the applicant is not issued by the govt. of West Bengal. His case was further rejected by order dated 14<sup>th</sup> December, 2016 which was communicated to him vide letter dated 30.01.2017 or fulfilling the Labour Department’s circulars on compassionate appointment. Therefore, the counsel for the respondent has prayed for dismissal of the order of the applicant for compassionate appointment. The counsel for the applicant further submitted that the inquiry report is not satisfied submitted by the Three Men Inquiry Committee with regard to his income. However, he has not denied the applicant was filed in 2013 only.

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Heard the parties and perused the records. It is noted that father of the applicant died on 21.03.2009. As per the documents of the applicant enclosed with the original application, he applied for compassionate appointment on 02.05.2013. From the above, it is clear that the applicant had filed this application for compassionate appointment in the year 2013 only.

As held by the Hon'ble Apex Court in the case of Umesh Kumar Nagpal – Vs- State of Hariyana – reported in 1994 (4) SCC 138 has held that the whole object of granting compassionate appointment is to enable the family over the sudden financial crisis caused due to sudden demise of the sole bread earner which cannot be granted after lapse of reasonable period.

In the instant case, the applicant approached the authority after more than 4 years time and it could have survived for 4 years time. It seems that he did not face any sudden financial crisis due to death of his father. Even he has not challenged the earlier rejection order dated 16<sup>th</sup> December, 2015. Therefore, I do not find any reason to entertain this O.A. The Respondents have rightly rejected the case of the applicant. Therefore, the O.A. is dismissed being devoid of merit with no order as to cost.

URMITA DATTA (SEN)  
MEMBER (J)

A.K.P.