

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson & Member (A)**

**Case No. OA – 193 of 2020**

**Sulekha Panda & Another - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order <u>10</u> 28.11.2022	For the Applicants	: Mr. A.B. Mukherjee, Mr. S.N. Ray, Advocates
	For the Respondents	: Mr. M.N. Roy, Advocate

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638 – WBAT / 2J-15/2016 dated 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under Section 5(6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in the application is for setting aside the impugned order of the respondent dated 29.11.2019 which had rejected the application for compassionate employment citing Notification 251 EMP dated 03.12.2013. As submitted by the learned counsel for the applicant, after the death of the employee in service, the widow Sulekha Panda had applied for compassionate employment on behalf of her son Debabrata Panda, who was only four years and eight months old at the time of father's death. Later, when the applicant, Debabrata Panda attained majority, he submitted his application after a gap of more than 13 years from the date of the death of his father. The respondent after considering the application rejected the same on the ground that the applicant submitted his application after a gap of 13 years and as per Labour Department Notification 251 EMP, a belated

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application can be submitted only within two years from the date of death of the employee. The reasoned order also mentions that since the applicant was a minor at the time of his father's death, therefore he is not eligible for compassionate employment.

Learned counsel submits that the applicant's case was accepted by the Respondent otherwise the SP DBD, Paschim Medinipur through a letter dated 17.08.2017 would not have communicated that the applicant Debabrata Panda to appear for interview bringing all testimonials regarding his application for compassionate ground. Mr. S.N. Ray submits that this very act of the respondent is a step towards offering him a compassionate employment, therefore at a later stage the respondent cannot reject the application.

Mr. M.N. Roy appearing for the State Respondent contest that although the application for compassionate employment for the widow Sulekha Panda was under active consideration by the respondent but as an after thought, she withdrew her application in favour of her son.

Mr. M.N. Roy further submits that it is very clear and imperative as per the Notification that the applicant, if minor at the time of his / her parent's death in-harness cannot be offered a compassionate employment. Therefore, the respondent by citing the relevant section to the Notification 251 EMP rightly rejected the application on ground of belated application and the applicant being a minor at the time of his father's death in service.

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Mr. M.N. Roy prays for time so that in consultation with the Department he will submit reply to the application by the next date.

Let the matter appear under the heading 'Hearing' on 17.02.2023.

Rejoinder, if any, in the mean time.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P