

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Officiating Chairperson and Administrative Member**

**Case No. - OA 269 OF 2021**

**SAIFUL ISLAM - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order : For the Applicant : Mr. S.K. Mitra, Advocate  
: For the State Respondents : Mrs. Sunita Agarwal, Advocate

15  
19.11.2024

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

In this application, the father of the applicant, Sanaulla Sk., who worked as a Constable with West Bengal Police died on 10.05.2011. As per the learned advocate for the applicant, soon after the death of the employee, the applicant's mother submitted a plain paper application for compassionate employment on behalf of her son, the applicant, Saiful Islam. At the time of death of the deceased father, the applicant was a minor of 13 years and 10 days. After attaining majority, the applicant also submitted an application on 03.01.2017. Different procedures prior to his appointment, like physical test, medical test were conducted and his proposal for employment was submitted to the appropriate authority. The respondent No.2, Commissioner, Home & Hill Affairs Department considered the proposal and rejected the same citing that "the proposal does not fulfil the required conditions as laid down in Notification No.251-Emp and Notification 26-Emp of Labour Department".

Mr. Mitra submits that since the impugned order does not give specific reason for rejection of the proposal, the impugned order is bad in law, thus it should be set aside and quashed. Mr. Mitra also submits that the intention of the respondents is based on paragraph 6(c) of Notification 251-Emp which was deleted by Notification 26-Emp on 01.02.2016.

Mrs. Agarwal submits that the rejection in the impugned order was based on 10(a) which is regarding financial assistance which is absolutely necessary to

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support the family. The impugned order based its decision on 10(a) of 251-Emp dated 03.12.2013 which makes it necessary to apply within six months from the date of death of the deceased employee. Mrs. Agarwal also submits that the rejection was also based on 10(a) of 26-Emp which is the revised provision for application to be made within two years.

Mr. Mitra further submits that since the applicant was a minor, his mother submitted a valid application to the respondents which was received by them. Mr. Mitra submits that the mother submitted a plain paper application to the respondents on behalf of her son, the applicant herein. Mr. Mitra submits and prays that the impugned order to be set aside because the impugned order does not give any specific reason why the application was rejected; the respondent has simply quoted the number of two notifications citing the two clauses under which he was not found eligible and rejected.

Mrs. Agarwal further submits that in the scheme there is no such provision where a mother can submit an application on behalf of her minor son for compassionate employment to be given in future whenever the son attains majority.

Having heard the submissions of the learned counsels and on perusal of the records in this application, the fact that the applicant was a minor at the time of death of his father, the deceased employee, is an accepted fact. On 10.05.2011, the date on which Sanauulla Sk., a Constable died, his son, the present applicant, Saiful Islam was a young boy of 13 years and 10 days. At this point of time, the applicant being a minor had not attained the age of employment. If one considers relaxation of further two more years as per clause 6(c) of 251-Emp, dated 3<sup>rd</sup> December, 2013, from the date of death of the employee, the applicant still remains a minor. For compassionate employment, the applicant should be eligible and suitable for the post in all respects under the provisions of the relevant recruitment rules. Thus, it can be safely concluded that the applicant being a minor was not suitable for an appointment under the Recruitment Rules. Mr. Mitra had contested that though it

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is a fact that the applicant was a minor, but his mother had submitted a plain paper application praying for such an employment on behalf of her son, this applicant. The Tribunal is not satisfied that the mother is a plain paper application on behalf of her minor son was a valid application. Further, from the copy of the plain paper application submitted by the mother neither any date nor any seal and signature of the office acknowledging the same is appearing. From the above observations, the Tribunal comes to the conclusion that the respondent authority was correct in not considering a compassionate employment on behalf of the applicant. The ground of such rejection given in the impugned memo No.2081 dated 11<sup>th</sup> November, 2020 was valid and very much within the framework of the guidelines laid down for employment under compassionate ground. Thus, finding no merit in this application, it is disposed without passing any orders.

(SAYEED AHMED BABA)  
OFFICIATING CHAIRPERSON  
and MEMBER (A)

SCN.