

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 – 348 of 2024**

**Samir Ram - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. S. Ghosh, Advocate
<u>4</u> 10.01.2025	For the Respondents	: Mr. G. Halder, 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.

This application has been filed praying for setting aside the impugned Memo 1211 dated 07.03.2024. By this reference, the Commissioner of Textiles & Sericulture conveyed his decision that the applicant's proposal for an employment under compassionate ground seems to be not a fit case and thus regretted. The father of the applicant, late Sibaprasad Ram, ex-Peon under Deputy Director, Sericulture, Cooch Behar died while in service on 07.03.2020. The applicant furnished a plain paper application addressed to the Deputy Director, Sericulture, Cooch Behar praying for such an employment which appears to have been received by the office on 15.10.2020. This was followed by submissions of the application in prescribed proforma and copy available in this application appears to show 05.03.2022 as the date when it was signed by the applicant with a signature appearing for Extension Officer, Sericulture, Dinhat, Cooch Behar dated 18.11.2022. Submissions of Mrs. Das, learned counsel, was that it is not correct as noted by the respondent authorities that such a proforma application was submitted on 18.11.2022, more than two years after the date of death of the deceased employee on 07.03.2020. Her submission as evident from the copy of the proforma application, it was submitted on 05.03.2022, which is within two years from the date of death of the deceased employee. Further, the respondent authorities have completely ignored the fact that the applicant had also submitted his plain paper application before the Deputy Director, Sericulture on 15.10.2020.

From the submissions of the learned counsels and the records in this application it is clear to this Tribunal that family of the deceased employee had clearly expressed

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their desire to benefit from an employment under compassionate ground. The applicant's mother had furnished a plain paper application on 15.10.2020 within seven months after the death of the employee. This was later followed by submission of the proforma application by the applicant which is dated 05.03.2022 and received by the office of the respondent on 18.11.2022. Copies of these documents have been enclosed with this application showing these were duly received by the respondent authorities. As per the guideline of the Scheme, it is the proforma application, which is the valid document to be considered within two years from the date of death of the employee. In this case, the proforma application dated 05.03.2022 was received by the office on 18.11.2020. Even if the date, 05.03.2022 is not accepted and only the date of receipt of the proforma had to be acknowledged and considered, then a delay of eight months had occurred. It is also to be appreciated that by an order of the Hon'ble Supreme Court during the Covid Pandemic restrictions, delays in filing documents were to be condoned during the period 20.03.2020 to 28.02.2022. This delay of eight months is well covered within this period of Covid restrictions. The respondent authority should have acknowledged this fact and accepted the proforma application as a valid application. The Tribunal is also disappointed with the decision of the Commissioner of Textiles and Sericulture. In Memo 1211 dated 07.03.2024 he had regretted the application for compassionate employment in less than three lines and most important, it does not cite any ground for the rejection of the applicant's prayer for compassionate employment. The entire decision is composed of just one sentence, which is:

*“With reference to the above, his claim seems to be not fit for Employment on Compassionate Ground in terms of Notification no. 251-EMP dt. 03.12.2013 & 26-EMP dated 01.03.2016 of Labour Department, Government of West Bengal. Commissioner of Textiles & Sericulture”*

For the Commissioner of Textiles & Sericulture, such decision in just few words must be an ordinary matter ignoring the fact that for the applicant it is more than his livelihood. Besides, it is expected from the respondent authority to elaborate a little more by citing specific reason and the specific provisions of the guideline and then take the decision. Such decision taken summarily and casually is not what is expected from the respondent authority in a matter which relates to an employment of the family of the

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deceased employee.

Having observed the above, the Tribunal is compelled to find the impugned Memo 1211 dated 07.03.2024 as a non est in the eyes of law, arbitrary and whimsical. Therefore it being quashable, it is quashed and set aside with a direction to the Commissioner of Textiles & Sericulture, respondent no. 4 to reconsider the entire matter in view of the Tribunal's observations and pass a reasoned and speaking order within three months from the date of communication of this order. Such speaking order containing the decision of the competent authority relating to compassionate employment prayed by the applicant be communicated to the applicant within two weeks thereof. This application is disposed of.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P