

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 362 OF 2024

ALAKA NAYAK - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicant	:	None
and Date of order	For the State Respondents	:	Mr. Soumendra Narayan Ray, Learned Advocates

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19.06.2025

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 23rd November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The prayer in this application is for a direction to the respondent authorities to give an employment to the applicant under compassionate ground after setting aside the rejection order No.389 dated 028.10.2022 issued by the Joint Secretary, Public Works Department on the primary ground that the applicant was over aged.

The father of the applicant died on 26.04.2021 while working as an Upper Division Clerk in Tamluk Highway Division, under South Western Highway Circle, Public Works (Roads) Directorate. Soon after the death of the government employee, on 07.06.2021 the widow furnished a plain paper application praying for such an employment before the Executive Engineer, Tamluk Highway Division, Public Works Directorate, Purba Medinipur and the same was forwarded on 04.08.2021 to the Superintending Engineer, Public Works (Roads) Directorate, who forwarded it to the Joint Secretary, Public Works Department on 27.06.2022. The Joint Secretary of the Department, by his memo No.389 dated 28.10.2022, regretted the prayer of the applicant in terms of Notification No.251-Emp, dated 03.12.2013 and No.26-Emp, dated 01.03.2016 of the Labour Department, on the ground that "*the age of the candidate shall not be less than 18 years and (after amendment) more than 40 years....*" in terms of provisions laid down under serial No.7 of memo No.3326-F dated 05.05.2009 read with amendment under serial No.3 of memo No.4184-F(P) dated 08.08.2016.

From the examination of the records, it is evident to the Tribunal that the applicant had furnished a plain paper application before the respondent authority within a short time after the death of her father. The government employee had died on 26.04.2021. Date of birth of the applicant, being 24.01.1978, at the time of death of the government employee, the applicant was 43 years 3 months 3 days old.

ORDER SHEET

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Learned counsel for the applicant, by way of filing supplementary affidavit, had submitted that memo No.3326-F dated 05.05.2009 read with amendment under serial No.3 of memo No.4184-F(P) dated 08.08.2016 are applicable in respect of direct recruitment only.

In the opinion of the Tribunal, the contention of the learned counsel that memos 3326-F dated 05.05.2009 and 4184-F(P) dated 08.08.2016 are restricted only for direct employment is not correct. The age limit for recruitment stipulated in the memos very well covers the employment on compassionate ground. Further 6(c) of the Notification No.251-Emp dated 03.12.2013 clearly relies on relevant recruitment rules. The relevant recruitment rules being memo No.3326-F dated 05.05.2009 and memo No.4184-F(P) dated 08.08.2016. These rules require upper age limit for recruitment to be 40.

From the above findings, the Tribunal is satisfied that the respondent authorities were correct in taking the decision that the applicant, at the age of 43, was not eligible for an appointment under compassionate ground. Besides, she had not applied for condonation of the excess age.

Thus, finding no merit in the prayers, this application is disposed of without passing any orders.

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

SCN.