

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 – 378 of 2023

Samir Saha - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. G. Halder,
and Advocate

Date of order
4

04.04.2024 For the Respondents : Mr. S. Ghosh,
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 23rd 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, the case is taken up for consideration sitting singly.

The father of the applicant was an employee under Berhampore Irrigation Division as Work-Assistant and died in harness on 29.01.2015. The applicant had submitted an application before the respondent authorities which was considered and rejected. Such rejection was challenged in this Tribunal in an earlier application and after observing that the impugned order rejecting the application was in just two lines without citing any reason, the order was set aside. The respondent authorities were directed to pass a reasoned and speaking order and while considering the application, relevant rule be quoted. In terms of such direction of the Tribunal, the respondent authority passed an elaborate order. This reasoned order is being assailed in this Tribunal. In the reasoned order, the respondents have noted that the total monthly income of the deceased family at Rs. 35,599/- is more than 90% of the gross salary last received by the deceased employee which was Rs. 33,649/-. Thus, having a higher monthly income than the deceased employee and relying on 6(A)(i) of the 251-EMP Notification, this application for compassionate employment was rejected. Further, the reasoned order has also stated that after the death of employee, the family received a total of Rs. 10,20,782/- being payments on account of Death Gratuity, Group Insurance and Leave Encashment.

Though the applicant side during one of the hearings in this matter was given the opportunity to furnish a financial statement controverting the financial statement presented by the respondent's side in their reasoned order, but despite another

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opportunity, the applicant's side failed to file any supplementary affidavit to dispute any of the figures shown by the respondents in their reasoned order as part of the family income. Since the applicant's side has failed to controvert the figures shown in the reasoned order, it is to be assumed that such figures showing Rs. 35,599/- as the monthly income of the family is the correct and true statement of the family income. It also implies that such amount is higher than 90% of the gross salary last drawn by the deceased employee.

Considering that the monthly income of the family should be below 90% of the last gross monthly salary of the deceased employee as stipulated in para 6 and eligibility of 251-EMP Notification, this Tribunal finds that the reason for rejection for compassionate employment arrived at by the respondent authority was correct and on merit. The Tribunal also observes that in the application itself nowhere this figure as quoted by the respondent authority has been disputed. Therefore, it is to be accepted that the reasons given for rejection of the compassionate employment was valid and has merit.

In view of the above observation and finding, this application is disposed of without passing any orders.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P