

ORDER SHEET

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Mrs. Urmita Datta (Sen), Member(J).

Case No. – OA-500 of 2020

**Brajamohan Maity - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	:	Ms. Rimpay Mukherjee, Learned Advocate.
	For the State Respondent	:	Mr. S.N. Ray, Learned Advocate.
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03  
24.03.2021

The matter is taken up by the Single Bench pursuant to the Notification No. 949-WBAT/2J-15/2016 dated 24.12.2020 issued in exercise of the power conferred under Sub-Section (6) of Section 5 of the Administrative Tribunal Act, 1985.

Affidavit of service has been filed. Let it be kept with the record.

The instant application has been filed basically praying for a consideration of compassionate appointment of the applicant in the light of the G.O. No. 251-Emp dated 03.12.2013 and G.O. No. 26-Emp dated 01.03.2016. As per the applicant he is the adopted son of the deceased employee who died on 09.12.1994. However, as the applicant was minor on that point of time, he approached the authority on 25.11.1997 only. Presently the applicant is praying for consideration of his case for compassionate appointment as per G.O. stated above.

However, according to the counsel for the respondent, the application is hopelessly barred by limitation as the applicant has applied for compassionate appointment after long three years i.e. 25.11.1997. Therefore, the main purpose of the compassionate appointment has been frustrated after lapse of so many years. It has been further submitted that the compassionate appointment has to be considered in accordance with the G.O. available at the time of the death of the deceased employee. Therefore, G.O. No. 251-Emp dated

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03.12.2013 and G.O. No. 26-Emp dated 01.03.2016 is not applicable in the case of the applicant.

Heard the parties and perused the records. It is noted that the applicant has prayed for consideration of his case of compassionate appointment in the light of the above mentioned G.Os. However, it is settled principle of law that the case of compassionate appointment would be considered as per the circulars/G.Os available at the time of death of the deceased employee. In the instant case, the employee died in the year 1994 and the applicant has claimed that his to be considered under G.Os of 2013 & 2016, which are not applicable in the case of the applicant. Even the circular dated 01.03.2016, while adding new clause 10 (aa) to the Notification No. 251-Emp dated 03.12.2013 also observed as follows :-

“In exceptional cases such as (i) death during action (ii) where none in family is eligible etc., departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Govt. Servant took place upto five years ago. While considering such belated request the 3 member screening-cum-enquiry committee should, however, keep in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Govt. Servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases could call for a great deal of circumspection at all

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levels. The dependent member must invariably attain the minimum age of appointment at the time of consideration.”

It is settled principle of law that compassionate appointment is not a matter of right. It has to be granted to tide over the sudden financial crisis occurred due to sudden death of the sole bread earner, which cannot be claimed after a long lapse of time. In the instant case, the applicant had first approached the authority after a lapse of three years when he was minor being an adopted child having biological father and mother. Even he has approached this Tribunal after a lapse of long 26 (twenty six years).According to my opinion the main purpose of compassionate appointment has been frustrated. Therefore, I do not find any reason to entertain this instant OA. Accordingly, OA is dismissed with no order as to costs.

URMITA DATTA (SEN)  
MEMBER (J)

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