

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 – 506 of 2022**

**Salma Khatun - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. M.N. Roy, Advocate
<u>3</u> 28.11.2022	For the Respondents	: Mr. A. De, Ms. R. Sarkar, Mr. S. Debray, (Departmental Representatives) Land & Land Reforms Department.

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.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The matter is admitted.

In this application, the prayer is for setting aside the impugned order of the respondent dated 15.06.2022. Earlier in compliance with the Tribunal's order, the respondent considered the matter and passed a reasoned order. In brief, after the death of the employee, Rafiuddin Ahamed, in-harness, the son Motiuddin Ahmed filed an application for compassionate appointment. But since 06.07.2013, he is missing and remains untraced till now. As a result, the two step sisters, Salma Khatun, the present applicant and Rokeya Rukshana Bibi submitted their own applications for compassionate employment on 20.04.2015 and 14.12.2015

respectively. At the time of deceased employees' death, the applicant, Salma Khatun was a minor and the step sister, Rokeya Rukshana Bibi was a married woman. In compliance to order of Tribunal in OA – 673 of 2021 and OA – 37 of 2017, the Respondent i.e. Secretary, Land and Land Reforms Department passed a reasoned order and rejected both the applications on the following grounds:

**“(1) Both the applications from the step sister were made after a lapse of permissible two years from the date of the deceased father’s death. Thus, such belated applications could not be considered.**

**(2) Since two members of the family of the deceased employee have applied and not willing to issue a N.O.C. for the other siblings, therefore, both applications cannot be considered since compassionate employment if suitable can be extended only to one member of the family on the basis of no objections given by other members of the family.**

**(3) The third reason given by the respondent is rejection of application by Rukshana Bibi, it appears that Rokeya, a married daughter could not produce any documentary evidence to prove that despite being married woman, she was dependant on her father’s income.**

**(4) Lastly, the second wife of the government employee, who is the mother of the applicant Salma Khatun is receiving family pension.”**

Mr. M.N. Roy learned counsel for the applicant submits that the delay in submission of the application by the applicant occurred due to the fact that her brother had applied within the stipulated time but his disappearance necessitated her to apply, although belatedly. Mr. Roy

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further submits that the question of obtaining N.O.C. from Rokeya Rukshana Bibi is not required due to the fact that she is a married daughter and lives with her husband separately and has not been dependant on the deceased father's income. Therefore, even if she is eligible, but due to her living with her husband in separate household and not being dependant on the income of the deceased father, her application should be rejected.

Mr. A. De, Ms. R. Sarkar and Mr. S. Debray appearing on behalf of the respondents support the reasons stated by the Respondent while rejecting the application. Further, Mr. A. De prays for time so that the response of the department will be submitted by the next date.

Let the matter appear under the heading 'Hearing' on 10.04.2023.

Rejoinder, if any, in the mean time.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P