

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 669 of 2024

PAYEL CHATTOPADHAY & ANR. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicants	:	Mrs. Priya Sasmal,
and			Learned Advocate
Date of	For the State Respondents	:	Mr. Gaurav Halder,
order			Learned Advocate

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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 setting aside the rejection order vide memo No.1766-H(Law)/PE/15S-169/24 dated 29th November, 2024 and grant compassionate employment to the applicant No.1a. The father of the applicant, Jagannath Chattopadhyay, died in harness on 14.07.2013, while working as an ASI under Port Division, Kolkata Police. Soon after death of the employee, the mother of the applicant submitted a plain paper application for compassionate employment on 30.09.2013 for this married daughter, which was rejected by the Deputy Commissioner of Police-II, Headquarters, Kolkata Police vide memo No.356 dated 31.01.2014 citing the reason that as per the circular of the Labour Department at that point of time, married daughter is not included in the definition of family. On 31.01.2018, the applicant submitted a representation praying for compassionate employment on the basis of change in law citing the decision of the Hon'ble High Court in the case of *State of West Bengal vrs. Purnima Das* to the effect that a married daughter is also entitled for compassionate appointment. Since the respondent authority did not consider the representation of the applicant No.1, the applicant No.1a had filed O.A. 70 of 2023 before this Tribunal. The Tribunal, by its order dated 23.06.2023, dismissed the said original application on the ground that the application was barred by limitation for the reasons that the applicant filed the application in the year 2023 praying for setting aside the impugned order passed by the respondent in the year 2014. By way of filing a writ petition, being *WPST No.154 of 2024*, the petitioner approached the Hon'ble High Court. In the order dated 30.07.2024 the Hon'ble Court observed :

“.....Accordingly the writ petition is disposed of with liberty to the petitioner to file an appropriate application for compassionate appointment before the competent authority being the Secretary, Department of Home within a period of three weeks from date.

ORDER SHEET

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THE STATE OF WEST BENGAL & ORS.

Upon receipt of such application, the Secretary, Department of Home, West Bengal or his delegate shall consider the petitioner's claim upon granting an opportunity to the petitioner and pass a reasoned order, in accordance with law and communicate the same to the petitioner.

The above exercise shall be completed within a period of eight weeks from the date of receipt of the representation from the petitioner."

In terms of such direction of the Hon'ble Court, the learned advocate for the applicant addressed a letter dated 08.08.2024 to the Secretary, Department of Home Affairs and the applicant made an application dated 04.12.2024 to the Secretary, Department of Home Affairs. The Special Commissioner, Home & Hill Affairs Department, Police Establishment Branch considered and rejected the proposal for compassionate employment of the applicant by passing a reasoned order, vide memo No.1766-H(Law)/PE/15S-169/24 dated 29.11.2024.

Being aggrieved by the said memo dated 29.11.2024, issued by the Special Commissioner, the applicant approached this Tribunal. On examination of the reasoned order, it is clear that the husband of the married daughter of the deceased government employee is presently working as Assistant Teacher in a government aided High School and the applicant herself is an advocate which is a legal profession. The primary criterion of giving compassionate employment, being financial stringency, is not fulfilled in this case. The deceased government employee died on 14.07.2013, the plain paper application was rejected on 31.01.2014 and the first original application was filed in the year 2023, which was barred by limitation. Therefore, the ratio of the judgement passed by the Hon'ble High Court in *Purnima Das (supra)* is not applicable. Moreover, it has no retrospective effect. The Notification No.251-EMP dated 03.12.2013 is the valid circular governing compassionate appointment at that particular point of time. From the above observations, the Tribunal comes to the conclusion that the respondent authority was correct in not giving a compassionate employment to the applicant. The grounds of such rejection given in the impugned memo No.1766-H(Law)/PE/15S-169/24 dated 29th November, 2024 were valid and very much within the framework of the guidelines laid down for employment under compassionate ground. Thus, finding no merit in this application, it is disposed of without passing any orders.

SCN.

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