

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 – 698 of 2022**

**Atanu Chakraborty - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	: Mr. A.K. Das Sinha, Advocate
<u>4</u> 12.12.2022	For the Respondents	: Mr. S.N. Ray, 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 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.

In this application, the prayer is for a direction to the respondent to allow Child Care Leave to the applicant, who is the sole male guardian to his ailing six years old child. From the submissions and the documents submitted by the applicant, it appears that the father is the only guardian to look after the child, who is suffering from Acute Lymphoblastic Leukemia (Pre-B) and is under treatment at Tata Memorial Hospital, Mumbai. In absence of his wife, who is already deceased, the applicant working as Junior Engineer (Civil) with the Directorate of Agriculture, prays that similar to a female guardian, he be given 730 days of Child Care Leave to look after his ailing son. Earlier his application for such leave was considered and rejected on the ground that there is no provision to sanction Child Care Leave to a male employee. Mr. Das Sinha agrees that in the Rules, there is no such provision, however, he submits a copy of the Indian Railways, issued by the Ministry of Railways, in which at 551 (E), it

Form No.

Atanu Chakraborty

Vs.

Case No. **OA – 698 of 2022**

THE STATE OF WEST BENGAL & ORS.

appears that the Indian Railways has made such provision for sole male guardians. The relevant portion of which is quoted hereunder:

*“(1) Subject to the provisions of this rule, a female Railway servant and single male Railway servant may be granted Child Care Leave by an authority competent to grant leave for a maximum period of seven hundred and thirty days during entire service for taking care of two eldest surviving children, whether for rearing or for looking after any of their needs, such as education, sickness and the like.*

*(2) For the purpose of sub-rule (1), “child” means-*

*(a) a child below the age of eighteen years; or*

*(b) an offspring of any age with a minimum disability of forty percent as specified in the Government of India in Ministry of Social Justice and Empowerment’s Notification No. 16-18/97-N 1.1, dated the 1<sup>st</sup> June, 2001.”*

Mr. Roy submits that there is no such provision in the Rules of the State. However, considering the gravity of the situation, if a direction be given to the respondent, the same shall be considered.

Mr. Das Sinha prays for liberty to submit a fresh representation before the Respondent No. 1 i.e. Principal Secretary, Water Resources Investigation & Development Department, Govt. of West Bengal enclosing a copy of the Indian Railways Memorandum as a reference.

Having heard the submissions and considering the nature of the case, the Respondent No. 1 i.e. Principal Secretary, Water Resources Investigation & Development Department is requested to consider the

**ORDER SHEET**

Form No.

**Atanu Chakraborty**

**Vs.**

Case No. **OA – 698 of 2022**

**THE STATE OF WEST BENGAL & ORS.**

representation to be submitted by the applicant as a special case and if necessary with the approval of the appropriate authority within a period of four weeks from the date the applicant furnishes a representation before him. The applicant shall submit a fresh application before the Respondent No. 1 i.e. Principal Secretary, Water Resources Investigation & Development Department quoting and attaching a copy of the Rules of the Indian Railways as a reference and requesting before the Respondent No. 1 to consider Child Care Leave to him as a special case.

Accordingly, the matter is disposed of.

**SAYEED AHMED BABA**  
**OFFICIATING CHAIRPERSON & MEMBER(A)**

A.K.P