

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 – 732 of 2022

Tamal Halder - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. For the Applicant : Mr. Dipanjan Karmakar,
and Learned Advocate

Date of order For the Respondents : Mr. A. K. Das Sinha,
10 Learned Advocate
19.02.2025

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.

By filing this application, the applicant has prayed for setting aside the impugned order dated 20.9.2022 by which the application for employment on compassionate ground was rejected on the ground that the applicant was a minor of only 12 years and 02 months at the time of death of the deceased employee. The applicant is the son of the deceased employee, Raimoni Soren, who had died in service working as a Nurse Grade-II in Arambag S.D. Hospital on 22.9.2012. By a representation dated 12.3.2013, Tarak Nath Halder, the father of the applicant had furnished a plain paper application praying for such an employment for his son, the applicant. In the same application, the father had stated that he is 43 years old and the applicant, Tamal Halder was 13 years old. Such plain paper application was also followed by submission of proforma application. Neither any date is seen in the copy of this proforma application nor any seal or signature of the office of the respondent. Having considered the application for such employment, the respondent authority passed the impugned order rejecting the application for such employment.

Having heard the submissions of the learned counsels and on examination of the records in this application, the Tribunal finds that it is not disputed by the applicant's side that the applicant was a minor at the time of death of his mother.

Mr. Zalaluddin, learned counsel had argued that this is a fit case as per 10(aa) of Notification 26-EMP dated 01.03.2016. Submission is that this particular proviso allows submission of an application for compassionate employment up to 5 years time from the date of death of the employee. It is argued that since at the time of consideration, the date being 20.09.2022, the applicant had already attained the age of

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employment – 22 years 2 months and 16 days, therefore, the respondent authority should reconsider their decision. Further submission is that the applicability of this proviso of 10 (aa) of Notification 26-EMP dated 01.03.2016 is relevant in this case, because the father of the applicant had already crossed the age of 43 years, thus, he was not eligible for such an employment nor was there any other family member to apply for such employment. The learned counsel refers to a certificate issued by the Gram Panchayat Prodhan, Gourhati-I Gram Panchayat as a proof of the age of the father of the applicant.

It has become clear to the Tribunal and not in dispute that the applicant was a minor boy of only 2 years of age when the deceased employee died on 22.09.2012. The rules governing the compassionate employment scheme makes it clear that such employment can be extended only to those legal heirs who apply within two years and have attained the age of employment. The true spirit of the Scheme is to extend an assistance by way of providing an employment to an eligible member if by death of the employee the family has been passing through serious financial crisis. It has become the norm to pray for an employment without manifesting the financial difficulties faced by the family. It has also become the practice for the members of the family to submit a plain paper application praying for an employment on behalf of the minor member when he attains age of employment in future. The letter written by Trak Nath Halder, father of the applicant on 12.03.2013 to the Director of Health Services shows that his son was a minor at that point of time and he prays for such an employment in future, cited below:-

“Only one son Shri Tamal Halder is about 13 years. So, I therefore pray to your honour that my son may get any service on compassionate ground after come to adult in future as per Government Rule.” From the very wording of the letter addressed by the father, it can be discerned that the applicant was a minor of about 13 years at the time the deceased employee died. It is also clear that the father had hoped and prayed for an employment when his son in future attains the age of employment.

Understanding the real objective of the scheme, the Tribunal does not accept such prayer of the applicant or his father. Such prayers are not compatible under the rules of

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the compassionate scheme stipulated in different Notifications of the Labour Department like 251-EMP dated 03.12.2013 and 26-EMP dated 01.03.2016. Thus, the Tribunal has come to this finding that such prayer for compassionate employment was not valid and the respondent authority was correct to have considered and regretted the same. Therefore, this application is disposed of without passing any orders.

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

A.K.P.