

ORDER SHEET

**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 793 OF 2022

MANOJ BAG - VERSUS - THE STATE OF WEST BENGAL & ORS.

|                                       |                           |   |   |
|---------------------------------------|---------------------------|---|---|
| Serial No.<br>and<br>Date of<br>order | For the Applicant         | : | Mr. Sukumar Ghosh,<br>Advocate          |
|                                       | For the State Respondents | : | Mr. Gautam Pathak Banerjee,<br>Advocate |

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20.07.2023

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 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 parties, the case is taken up for consideration sitting singly.

The applicant has prayed for setting aside the impugned order dated 09.11.2022. In terms of this Tribunal's direction, the respondent passed a reasoned order rejecting the application for appointment on compassionate ground. While rejecting the application, the order gave four reasons for such rejection, which are:-

- (a) *The candidate could not attain eligible age for government service within stipulated period of two years from the date of death of the deceased employee.*
- (b) *The Belated Clause 10(aa) of 26-Emp dated 01.03.2016 is not applicable in this case as the candidate was 10 years 07 months 16 days on the date of death. So he could not attain eligible age of 18 years within 5 years which is the maximum period of permissible time limit under the Labour Department's Notification.*
- (d) *The criteria for immediate financial need of the family in terms of Labour Department's Notifications as stated above has not been established."*

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

After hearing submissions of the learned counsels and examining the records in this application, the Tribunal observes that the applicant was a minor of 10 years in age at the time of death of his father, the deceased employee. Therefore, as per extant Rules, the applicant was not eligible for such appointment. Although the applicant refers to Clause 10(aa) of 26-Emp dated 01.03.2016 which is an extended time line for submission of applications under certain conditions, however, the Tribunal finds that this provision cannot be applied in this case due to the applicant being a minor of 10 years in age. The Tribunal also fails to be satisfied of the applicant's economic condition warranting such an employment. The appointment on compassionate ground is very specific with regard to the economic condition of the applicant and his family after the death of the employee. By the very word "compassion" the State extends such assistance in the form of employment if it is of the opinion that due to the sudden death of the government employee, his family has been left high and dry financially.

In view of the above observations, the Tribunal does not find any merit in this matter and this application is disposed of without passing any orders.

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

SCN.