

**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 802 OF 2023**

**PARIMAL MAHANTA - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. For the Applicant : Mr. Sankha Ghosh  
and Learned Advocate  
Date of For the State Respondents : Mr. Gaurav Haldar,  
order Learned Advocate

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29.01.2025

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 23<sup>rd</sup> November, 2022 issued in exercise of the powers conferred under section 5(6) of the Administrative Tribunals Act, 1985.

The applicant has prayed for setting aside the impugned memo dated 25.08.2023 by which a decision was communicated to the Commissioner regretting the proposal for this applicant's compassionate employment. In the impugned reference, it is mentioned that such an application was preferred before the respondent authorities after a delay of more than three years after the death of the employee. The father of the applicant had died in harness while working as an ex-Reeler under the Deputy Director of Sericulture, Darjeeling on 04.09.2018.

Submission of Mr. Ghosh is that soon after the death, both the mother of the applicant and the applicant furnished plain paper applications on 26.10.2018 before the Joint Director of Sericulture praying for an employment under compassionate ground. Such plain paper application was later followed by submission of the proforma application on 28.12.2021. Submission of Mr. Ghosh is that the respondent authority passed this impugned decision on the basis of the date of submission of the proforma application, but completely ignored the fact that plain paper applications, submitted by him and the mother on 26.10.2018, were within two years from the date of death of the employee.

The responsibility of expressing the wish for an employment under compassionate ground by way of submission of the prescribed application is primarily on the members of the family of the deceased employee. The guidelines covering such compassionate employment makes it clear that such an application in the prescribed proforma should be submitted within two years from the date of death of the employee. Such stipulation is clearly stated in the Notification No. 251-Emp dated 3<sup>rd</sup> December, 2013 and Notification

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No.26-Emp dated 1<sup>st</sup> March, 2016, issued by the Labour Department. From the impugned order No.3144 dated 25.08.2023, it is also apparent that the members of the deceased family were assisted by the concerned officers to advise and guide them to complete the formalities. Such meeting was held on 05.10.2018 soon after the death of the employer on 04.07.2018. Despite such assistance, the applicant's side failed to submit the proforma application within two years from the date of death of the employee. From this fact, the responsibility of filing the application belatedly lies entirely with the applicant, who had submitted the proforma application at a later date on 28.12.2021. The argument of the applicant's side that his mother had submitted a plain paper application within time on 26.10.2018 cannot be considered a valid argument for the reason that the proforma application which was required to be submitted within two years was submitted after lapse of more than three years. It is also to be appreciated that offer of any employment under compassionate ground is not solely based on timely submission of the proforma application. The primary objective of the scheme is to provide minimum support to the family if the family has been suffering from untold financial misery due to death of the earning member. In this case, besides the delay in submitting the proforma application, no such case has been made to show that due to death of the earning member, the family has been suffering miserably and was in need of an urgent assistance by way of employment to one of the eligible members of the family.

Having observed the above points, the Tribunal is not satisfied that the prayer in this application merits any direction to the respondent authorities. The respondent authority was correct in taking a decision regretting the proposal of compassionate employment and such decision was taken within the legal framework covering an employment under compassionate ground. The application is disposed of without passing any orders.

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

SCN.