

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 – 839 of 2022**

**Pintu Paul - VERSUS - THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order <u>11</u> 21.03.2025	For the Applicant	: Mrs. S. Agarwal, Mr. S. Bhattacharjee, Learned Advocates
	For the Respondents	: Mr. S. N. Ray, Learned 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.

By filing this application, the applicant has prayed for setting aside the impugned order of the respondent authority rejecting his prayer for an employment under compassionate ground. The Additional Chief Secretary of the Department had passed a reasoned order dated 05.05.2022 in Memo. No. 993. Such order had to be passed in terms of a direction of this Tribunal on 11.06.2019 in OA 900 of 2018. The Secretary of the Department regretted the prayer for an employment under compassionate ground mainly on the ground that the applicant was a minor at the time of death of the deceased employee, his father. The date of birth of the applicant being 03.02.1988, he was only 15 years 11 months and 3 days. The reasoned order also had observed that he submitted his application for employment on 28.07.2008 after more than four and half years from the date of death of his father. The order also refers to the Notification 251-EMP which is the guideline for compassionate employment. As per this Notification, two years time is extended for members of the family to apply.

Submitting on behalf of the applicant, Mr.S.Bhattacharjee, learned counsel argues that under 10(aa) of Notification 26-EMP dated 03.12.2016, a total time of five years is allowed for a family member to apply.

From the submissions of the learned counsels and the records, the Tribunal finds that though the applicant was a minor at the time of death of his father on 22.01.2004, but the competent respondent authority decided the matter only on 05.05.2022. Such decision was taken after a direction of this Tribunal in OA-900 of 2018 on 11.06.2019. This Tribunal is inclined to believe that had not the Tribunal passed any direction, the competent authority would not have taken any decision at all. The Tribunal is also

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satisfied that although the applicant was a minor at the relevant point of time, but on 05.05.2022 when the competent authority decided the matter, the applicant had already attained the age of employment. The applicant's date of birth being 03.02.1988 he had already reached the age of 34 years 3 months and 2 days. While going through the records in this application, the Tribunal cannot also ignore that on 20.08.2009, the Directorate of Animal Resources and Animal Health had advised the applicant, Pintu Paul to appear for a Medical Examination before the Chief Medical Officer of Health, Darjeeling by Memo. No. 2449 dated 20.08.2009. Such Medical Examination was conducted and a report also given by the Chief Medical Officer of Health, Darjeeling on 02.09.2009. Another relevant document in this application is a letter of the applicant addressed to the Director, Animal Resources Development dated 12.08.2009 advising him to submit his PVR form. From these records, it is clear that the applicant was considered entitled for an appointment under compassionate ground by the officials and he was assisted in completing his usual formalities like Medical Examination and PVR. The very purpose of an employment under compassionate ground is to extend assistance to the family of the deceased employee by providing an employment to an eligible member, as required by the guideline of the Scheme. Soon after submission of an application by the applicant, an Enquiry-cum-Screening Committee was set up comprising three Assistant Directors of the District. This Committee submitted their report dated 31.08.2017 before the Director clearly recommending such an appointment to the applicant stating that *"they have practically no sources of either monthly Income or any other Income except their family pension. With the death of Taramohan Paul the family members are facing financial hardship. So, Government Services to the dependant is highly essential."*

From the clear and unambiguous recommendation of the Committee, it can be safely accepted that after the death of the deceased employee, Taramohan Paul, the applicant and his family were in tight financial condition and was very much in need of a support in the form of an employment. After considering all the facts and circumstances of this matter, the Tribunal has come to this conclusion that the rejection of his prayer for an employment under e.g. was unfair, unjust and arbitrary. The reasons

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ascribed for such rejection are not the true reflection of the circumstances as recorded above. Thus, the reasoned order passed in Memo 993 dated 05.05.2022, being a non est in the eyes of law is quashed and set aside. The respondent, Additional Chief Secretary, Deptt. of Animal Resources Development is directed to reconsider the prayer of the applicant in the light of above observations of the Tribunal and communicate his decision in the form of a Reasoned Order the applicant within three (3) months from the date of communication of this order.

This application is disposed of.

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

A.K.P.