

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 1227 of 2016

Ram Chandra Hela -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	: Mr. A. Hati, Ld. Advocate.
	For the State respondent	: Mrs. S. Agarwal, Ld. Advocate.
<u>28</u> 29.03.2023		

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 23rd 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.

The prayer in this application is for setting aside the impugned order passed by the respondent on 02.04.2015 rejecting his application for compassionate employment on the ground that the applicant was a minor at the time of death of his deceased father. The applicant was born on 21.05.1983 and on 14.07.1996, his father died-in-harness as Sweeper working in Singot Rural Hospital, Burdwan.

Submission of Mr. A. Hati, learned counsel for the applicant is that the applicant was called for an interview before a Three-men Enquiry Committee on 27.10.2010 for verification of his documents relating to employment on compassionate ground.

Further, Mr. Hati submits that the impugned order itself is a cryptic one and does not cite any Notification or Rule under which the application was rejected. Finally, the Notification No. 251-Emp. dated 03.12.2013 is not relevant in this matter which has been relied upon by the respondent because the Notification was issued after the date of death of the deceased employee.

Responding to the above submissions of Mr. Hati., Mrs. S. Agarwal, learned counsel appearing on behalf of the respondent submits that the application was rejected on the ground that the applicant was a minor at the time of father's death and this rejection is covered under Notification No. 251-Empt. of 2013. Further, Mrs. Agarwal submits that this Notification is relevant even for cases whose cause of action occurred prior to the date of

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Notification because the very first line of the Notification states “.....*in supersession of all earlier notifications.....*”

What has appeared from the submission and records is that a young man whose father as the sole bread winner has died and who is now expecting an employment as a compassionate gesture from the Government. He submits his application and is called for interview where his documents are examined and a proposal submitted to higher authority. Unfortunately, it takes five years for a reasoned order to be passed, rejecting the application for compassionate employment. Reason given is “this criteria is not fulfilled in this instant case” as per the Labour Department Notification. However, no particular Notification has been cited.

From the above it is clear that (i) the Three-men Enquiry Committee headed by an officer of the rank of Deputy CMOH was either not aware of the Notifications governing the compassionate employment or they have not been authorised or advised to check each application for compassionate employment with reference to the relevant Notifications. It would have been prudent and humane if the Three-men Enquiry Committee, being aware of the Notification and admissibility of each application informs the candidate then only, about the reasons why he is not eligible. However, in all the cases, the Tribunal has examined, the Three-men Enquiry Committee does not exercise such a responsible role. On the contrary, such Three-men Enquiry Committee rather recommends the case, which is ultimately turned down by the concerned authority. Such dichotomy and divergence in the Government leads to confusion and disappointment.

Secondly, the long gap from the date of Three-men Enquiry Committee interview and the final decision taken by the concerned authority, five years in this case is too long a period. The gap should be narrowed so that when the applicant is confronted with the news of rejection, he would save precious time of his youth in trying for employment elsewhere. Therefore, the Three-men Enquiry Committee interview and rejection after five years is like inflicting same kind of punishment on the applicant, rather than showing any

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compassion.

In view of such observation, the concerned authority in the Government is requested to issue suitable direction on all concerned so that the long gap between the Three-men Enquiry Committee and the final decision of the authority is narrowed down considerably.

Let a copy of this order be furnished before the Chief Secretary for his kind information and suitable direction to the concerned authorities, if he so pleases. Let Registry arrange to furnish a copy to the Chief Secretary.

Regarding the merit of this application, since it is clear that the applicant was a minor and Notification 251-Emp. does not authorise the Respondent to offer compassionate employment, I do not find any merit in this application, therefore, the application is **disposed of** without any order.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

CSM/SS