

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-158 of 2017

Anjarul Hussain VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. G.P. Banerjee,
Mr. R.K. Mondal,
Learned Advocates.

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27.07.2022

For the State
Respondents : Mr. M.N. Roy,
Mrs. S. Das,
Learned Advocates.

Mr. Roy, learned advocate appearing on behalf of the state submits that since the applicant's father died in the year 2002, the applicant applied for compassionate employment in the year 2012 which clearly shows that during this period he could sustain himself financially which means that there was no financial crisis in the family.

Mr. Banerjee, learned advocate appearing for the applicant submits that after the death of the deceased employee on 19.03.2002, the widow Ashila Khatun had submitted her application for compassionate employment which was processed, enquired, recommended by different offices of the respondents. However, since 2002 till 2012, Ashila Khatun did not receive any intimation from the respondents regarding the fate of her application of compassionate employment.

Having waited for so long and getting old, she submitted a fresh application on 19.12.2012 to apply for compassionate employment on behalf of her son Anjarul Hussain, the applicant. The applicant, Anjarul Hussain submitted the proforma application

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on 18.12.2012 against which an enquiry was also made and a proposal submitted by the Superentending Engineer to the Chief Engineer Teesta Barage Project, Siliguri. The respondent after considering the application passed a reasoned order dated 13.02.2017 and citing views of the Labour Deptt, the application was rejected on the ground that the application was filed when the applicant was (12 years and 3 months).

Mr. Banerjee submits that the respondents did not consider and ignored the fact that within the stipulated time, the widow of the deceased employee had submitted an application for compassionate employment for herself and despite completing all the formalities and also being recommended, the respondents never took any decision till now. So after waiting patiently for more than ten years, and not receiving any response, she decided to apply for her son, the applicant, Anjarul Hussain. This very important fact of the matter was not considered by the respondents. Therefore, the rejection cited by the respondent is not tenable and it is injustice to the applicant. Therefore, the impugned order of the respondent dated 13.02.2017 be set aside and quashed.

Mr. Banerjee also cited one judgement reported in (2006) 9 SCC 195 Syed Khadim Hussain Vs. State of Bihar and in the said judgement para 6 stipulates that :-

”As the widow had submitted the application in time, the authorities should have considered her application. As eleven years have passed she would

not be in a position to join the government service. In our opinion, this is a fit case where the appellant should have been considered in her place for appointment. Counsel for the State could not point out any other circumstance for which the appellant would be disentitled to be considered for appointment. In the peculiar facts and circumstances of this, we direct the respondent authorities to consider the application of the appellant and give him appropriate appointment within a reasonable time at least within a period of three months. The appeal is disposed of in the above terms.”

After hearing both the learned advocates and considering the facts and circumstances of the case, I am of the view that the respondent did not take into account, the fact that after the death of the employee, the mother had submitted her application for employment and also the fact that the concerned office of the govt., processed and even recommended the case. Therefore, it appears that respondents shied away from taking a decision on her application nor intimated the applicant about the fate of the application. It is also to be understood that had her application been disposed of in time, either in offering her an employment or rejecting it, the widow, the first applicant would have been better guided in taking decisions for her family accordingly. But in this case it is very clear that the respondents received her application

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but kept on processing it, without any conclusion. Thus, making her wait for such long time forced her to submit an application for her son, which was belated, but it was beyond her control.

In view of the above facts and circumstances, the impugned order dated 13.02.2017 is not maintainable, therefore, it is set aside and quashed with a direction to the Respondent No. 1, Principal Secretary, I & W D Deptt. to consider the application of Anjarul Hussain for compassionate employment in the light of the above observations and also in the light of the Apex Court Judgement quoted above by passing a reasoned order to be communicated to the applicant within 12 weeks from the date of presentation of a copy of this Order. The matter is disposed of.

SAYEED AHMED BABA
MEMBER (A)

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