

**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- 18 of 2023**

**Sourav Dome VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Ms. K. Kulsum,  
Learned Advocates.

04  
07.07.2023

For the State  
Respondents : Mrs. S. Agarwal,  
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 (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 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 rejecting the prayer for compassionate employment. The father of this applicant died in harness working as Dom at Burdwan Medical College & Hospital on 23.02.2015. The widow and mother of the applicant, Mala Dom submitted an application for compassionate employment for herself. While this application was examined, she also died on 26.11.2021. After the death of her mother, this applicant applied for compassionate employment for himself. The respondent while considering this application did not find him to be eligible on the ground that at the time of death of the deceased employee, the applicant was 12 and ½ years old and rejected the prayer for compassionate employment as Notification No. 251-Emp and 26-Emp.

Submission of Ms. Kulsum is that the respondent authority was unfair in rejecting the application for compassionate employment on the ground that he was a minor at the time of death of his father. The respondent clearly ignores the fact that his mother, as widow of the deceased employee on time had applied for herself. While her application was being examined by the respondent, she unfortunately

died. By mere sticking to the technicalities of the rule in the Notification, the respondent authority has overlooked the economic and financial hardship, the family was undergoing. Had the mother been alive giving compassionate employment, such economic difficulties would not have occurred. Given this difficult situation, the applicant when he applied in the year 2021, he had attained the age of 18 years and entitled for compassionate employment.

In support, Ms. Kulsum refers one judgement reported in (2006) 9 SCC 195 – Syed Khadim Hussain Vs. State of Bihar & Ors. The operative portion of the judgement is as under :-

*“As the widow had submitted the application in time the authorities should have considered her application. As eleven years have passed she would not 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 case, 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.”*

Mrs. Agarwal prays for accommodation to make her submission.

Let the matter appear on **03.10.2023** under the heading Reply/rejoinder and further hearing.

SAYEED AHMED BABA  
OFFICIATING CHAIRPERSON & MEMBER(A)

