

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-181 of 2022

Smt. Soma Ghosh -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Ms. N. Das,
Ld. Advocate.

For the State Respondents : Mr. S. Ghosh,
Mrs. S. Bandyopadhyay,
Ld. Advocates.

10
05.08.2024

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.

After death of her father, the deceased employee on 10.02.2000, an application from the applicant was filed within the permissible time but was considered and rejected on 15.12.2000. Thereafter, the applicant approached this Tribunal in OA 980 of 2017 challenging the same reasoned order. The Tribunal after hearing the matter set aside the same reasoned order on the ground that it was not a reasoned and speaking order with a direction to reconsider the matter. The matter, after being reconsidered, was rejected on the ground that there was a long delay of 17 years from the date of death of the employee till filing an application before the Tribunal. The respondent authorities were of the opinion that such long delay does not support the theory that after the death of the employee, the family was financially in difficulty. The very fact that the family was able to sustain itself does not make it entitled for such compassionate employment.

From the above points, the Tribunal does not agree with the first contention of the respondent authorities that there was a long delay of 17 years in filing the earlier application. The plea of such delay to be made a ground at this stage is not valid for the reason that the Tribunal in its order in OA 980 of 2017 had already considered such delay and passed a direction. For the Tribunal, what is more relevant to consider is the second ground of rejection which is financial sustenance. It is a well settled law now that an employment under compassionate ground is neither hereditary nor a vested right of the legal heirs of the family. Since it is a need based scheme, the most important criteria required to be fulfilled by members of the deceased family is whether, in absence of the earning member, could they sustain their livelihood

Form No.

Case No. **OA-181 of 2022**

Vs.

The State of West Bengal & Ors.

comfortably or not. It is a well accepted norm that such employment can be offered only on the primary condition that due to death of the deceased employee, the family was passing through serious financial crisis. In this case, though the deceased employee had expired 24 years ago, it becomes difficult to accept whether members of the deceased employee, including the applicant has been facing economic difficulties. Twenty four years is a long time and it has not been made clear to this Tribunal that due to such difficulty, an employment has become necessary. Though a married daughter is also entitled for such an employment but an important criteria to be fulfilled is to establish beyond any reasonable doubt that despite being a married daughter, the applicant has been entirely dependant on the earnings of her parents. In this application, neither it has been shown whether the applicant is married or remains an unmarried daughter, nor her financial dependency on her parents. In absence of such fact, it becomes difficult to accept the prayer of the applicant for an employment under compassionate ground. The Tribunal does agree with the argument of the respondent authority that the applicant has been able to manage her household for the last twenty four years. The delay in approaching the Tribunal after the first rejection of her application has also not been explained by the applicant. By not explaining such reason, it leaves a serious doubt in the minds of the Tribunal whether the applicant was indeed in need of such an employment.

Ms. Das, learned counsel appearing for the applicant wishes to take instructions and submit her points of view relating to the above observations of the Tribunal. Let her submissions be heard on the next date.

Let the matter appear under the heading “**Hearing**” on **24.02.2025**.

CSM

SAYEED AHMED BABA
Officiating Chairperson & Member (A)