

ORDER SHEET
WEST BENGAL ADMINISTRATIVE TRIBUNAL
Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. - OA 184 OF 2020

UTTAM BIR - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

05
21.01.2025

For the Applicant : Mr.S.C.Atha
Advocate
For the State Respondents : Mr.Goutam Pathak Banerjee
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 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.

Affidavit of service filed today, be kept in record.

By filing this application, the applicant has prayed for setting aside the impugned order No. 9890 dated 24.05.2018 issued by the Commissioner of Police, Kolkata. The impugned order considered and rejected the prayer of the applicant for an appointment under compassionate ground for the following two reasons:-

- (i) Need for immediate financial assistance has not been substantiated,
- (ii) The first application for such appointment was made by the applicant after eight years from the date of death of the employee.

S.N.Bir, a Constable under Kolkata Police had died while in service on 21.06.1999. It is the admitted fact from the applicant side that at the time of death of his father, he was a minor boy of only 15 years old. In terms of Notification No. Emp-251 dated 03.12.2013 and

Emp-26 dated 01.03.2016, a family member wishing to apply for an appointment under compassionate ground is required to furnish an application in the prescribed proforma within two years from the date of death of the employee. However, in this case, it is also an admitted fact that such an application was made after eight years from the date of death of the employee. No copy of such an application has been made available by the applicant in this application to controvert the statement of the respondent authority that such an application was made after eight years. Mr.Atha, learned counsel draws my attention to copies of correspondence by which the applicant was invited to appear for an interview. Another correspondence also asked the applicant his willingness to join as a G.D.A. under the Health and Family Welfare Department. Submission of Mr.Atha is that despite attending the interview and submitting the willingness, the respondent authority regretted his prayer for appointment.

Mr.G.P.Banerjee, learned counsel appearing on behalf of the State respondents submits that it is evident from the applicant itself and also supplemented by submission of Mr.Atha that the applicant was a minor boy of only 15 years old at the time of death of his father. Submission is that a minor legal heir is not entitled to be offered an appointment. As per recruitment rules, the minimum age of appointment is 18 years.

Having heard the submissions of the learned counsels and after examination of the records, the Tribunal finds it is an admitted fact and not disputed that the applicant was a minor boy at the time of death of his father on 21.06.1999. Later, when the authorities invited him for the interview and asked for his willingness, he may have attained the age of appointment, but attending in an interview and expressing his

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willingness does not confer him any right to be appointed for a post. It is a well settled issue that prior to arriving at the final decision by the competent authority, these formalities are completed so that the proposal is complete in all respects. However, it is also to be understood that mere appearance in an interview or expressing his willingness for an appointment does not confer any right on the applicant to claim an appointment under compassionate ground. It has also been observed that by the time the applicant attained the age of appointment and submitted his application for appointment, a good eight years had passed, thus making such an application an invalid application.

Having observed above, the Tribunal does not find any error committed by the respondent authority in regretting the prayer of the applicant for employment under the compassionate ground. Thus, this application, being devoid of any merit, is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

BLR