

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 186 of 2020

NABAKUMAR PAYRA - VERSUS- THE STATE OF WEST BENGAL & OTHERS

Serial No. and  
Date of order

15  
20.6.2024

For the Applicant : Mrs. S. Mitra,  
Advocate.

For the State Respondents : Mrs. S. Agarwal,  
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.

The application for an employment under compassionate ground was considered by the respondent authority and regretted by an order dated 03.9.2015. Earlier the father of the applicant, Jaynarayan Payra, an A.S.I. had committed suicide on 13.4.1998 while in service. The Tribunal in its order dated 15.01.2016 had set aside the rejection order in OA – 461 of 2015 and issued a direction for reconsideration. In terms of such direction, the S.P., Paschim Midnapore submitted the proposal for suitable action to the competent authority without any comments regarding merit of the case. Such proposal not being responded by the authorities, the applicant filed an application before this Tribunal in OA-1103 of 2017. The Tribunal after hearing the matter directed the Principal Secretary, Department of Home and Hill Affairs to take a decision on the pending proposal for an employment under compassionate ground. The Department of Home and Hill Affairs by its memo 2325 dated 02.8.2018 conveyed the decision to the D.G. and I.G. of Police regretting to consider such an appointment in favour of the applicant for the primary reason that at the time of death of the employee, the applicant was a minor of only 08 (eight) years 10 (ten) months and 04 (four) days. Such ground for not considering was as per Notification 251-Emp dated 03.12.2013 read with subsequent Notifications. The counsel for the applicant though not disagreeing with the reason that the applicant was a minor at the relevant point of time, however, stresses the statement of S.P.,

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Paschim Midnapore. Submission of Mrs. Mitra is that the Field Officer being the S.P. being aware of the financial condition of the family had recommended this case on sympathetic consideration. Mrs. Mitra further submits that the concept of the compassionate employment is need based and instead sticking to technicalities, the authority should have appreciated the condition of the family.

In response, Mrs. Agarwal, learned counsel points out that it took a long time for the applicant to file his first application praying for compassionate employment. The very fact that it took sixteen years for the applicant to file such an application for compassionate employment is enough evidence to prove that the family, despite death of the bread winner, was not in dire situation to require such compassionate employment. It is an undisputed fact that the applicant was a minor at the time of death of his father. Therefore, the rules do not allow the application of a minor for compassionate employment.

Having heard the submissions of the learned counsels and after examination of the records in this application, the Tribunal finds that the applicant was a minor of only 08 (Eight) years 10 (Ten) months and 04 (Four) days at the time of death of the deceased employee. Therefore, in accordance with the rules framed to govern the scheme on compassionate employment, the applicant was not entitled for such an employment. The Tribunal also finds that there was a long delay of sixteen (16) years from the date of death on 13.04.1999 to the date when a plain paper application was submitted on 27.6.2014. Late realisation from the legal heir for such an employment also leaves a serious doubt in the mind whether the family was indeed in a dire economic distress and needed such an employment. The scheme for compassionate employment does not confer any vested right to the family of the deceased. It is only a compassionate gesture and hand holding temporarily from the State Government at the time of death to help the family overcome such economic crises. If the family has been able to manage for so long on its own after the death of the earning member, then it can be safely assumed that the family was not in any

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serious financial crises. Therefore, from the above observations, the Tribunal is not satisfied that the prayer in this application for a direction to the respondent authorities to grant him an appointment under compassionate ground has any merit. Therefore, this application is disposed of without passing any orders.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

sc.

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