

**ORDER SHEET**

**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 213 of 2021.

CHANDANA DUTTA & ANOTHER- VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

14  
16.04.2024

For the Applicants : Mr. S. Bhattacharjee,  
Advocate.

For the State Respondents : Mr. S.N. Ray,  
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 the learned counsel for the contesting parties, the case is taken up for consideration sitting singly.

From the submissions of the learned counsel and the records, the Tribunal has observed the following points :-

(i) Though the applicant had presented his application for such employment on 23.2.2007, but the fact remains that on this very date of application, the applicant had not attained the age of employment.

(ii) The applicants have argued that the respondent authority should have considered his application under 10(aa) of Notification 26-Emp dated 01<sup>st</sup> March, 2016 which enables family member to apply up to five years from the date of death of the deceased employee. However, this same provision has two conditions :-

(a) The death of the employee should have granted in action.

(b) None in the family at the relevant point of time of death of the deceased employee was eligible to apply.

The Tribunal finds this claim of the applicant debatable since Chandana

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Dutta, the widow appears to be eligible for such employment, but chose not to apply.

Mr. Bhattacharjee further submits that under 10(aa) it has been made clear that the dependant member must have attained the age of appointment at the time of consideration. His argument is that at the time of consideration of his application by the respondent authority on 14.7.2016, the applicant had already attained the age of employment and therefore such rejection was bad in law.

Let the matter appear under the heading "For Orders" on 11<sup>th</sup> July, 2024.

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

Sk.