

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Sayeed Ahmed Baba, Member (A)

Case No. OA – 217 of 2022

Kanchan Sardar & Another - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicants	: Mr. M.N. Roy, Advocate
<u>28</u> 04.08.2022	For the Respondents	: Mr. S. Ghosh, Advocate

In this application, the prayer is for a direction to the respondent to offer compassionate employment after setting aside the impugned order which had rejected his application. The deceased employee died on 29.03.2004 and since the applicant was a minor, his mother submitted a plain paper application for employment for herself to the respondent on 17.08.2004, which was within the stipulated six months period. This application was duly forwarded on 02.11.2004 by the B.M.O.H. to the Director of Health Services. Later, a revised application was made which was forwarded by the CMOH, South 24-pgs. for compassionate employment in favour of the applicant, Probal Sarder to the Joint Director of Health Services (Personnel) on 16.07.2012 along with all the relevant documents. This was based in response to a plain paper application of the applicant submitted to the CMOH in March, 2012. The respondent, Director of Health Services considered the application and rejected on the ground that the applicant was a minor at the time of his father's death, therefore, as per EMP-251, the criteria of being eligible was not fulfilled. This impugned order was challenged by the applicant in High Court which was dismissed by a Division Bench in EMA-2363/2014. The applicant has now approached the Tribunal challenging the impugned order with the prayer that it may be set aside.

Mr. S. Ghosh submits that the rejection on the ground that the applicant was a minor at the time of his father's death is a valid and proper decision taken by the respondent in accordance with EMP-251. As per the Rule, such a

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compassionate employment is available to any legal heir of the deceased employee, if eligible and who have applied within six months period. In this case, it was neither applied within six months nor was the applicant eligible at that period of time.

Mr. M.N. Roy in response submits that though the applicant was a minor at that period of time, but the respondents completely ignored the fact that within the stipulated period the mother had applied on a plain paper for employment for herself which was subsequently changed in the name of the applicant, Probal Sarder, her son. Mr. Ghosh submits that such an application filed by the mother even within time for herself but later changed in the name in favour of her son, is not permissible in law.

Both Mr. M.N. Roy and Mr. S. Ghosh submit that during the next date of hearing they will submit some relevant judgements and orders of the High Court and the Tribunal.

Let the matter appear under the heading 'Admission Hearing' on 21,11,2022.

SAYEED AHMED BABA
MEMBER(A)

A.K.P