

**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 246 of 2018**

**Avishek Sarkar -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mr. Sourav Bhattacharjee,  
Ld. Advocate.

For the State respondent : Mr. S.N. Ray,  
Ld. Advocate.

22  
14.03.2024

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 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 counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the impugned order passed by respondent authorities dated 04.12.2015 rejecting the prayer for employment on compassionate ground. Rabindra Kumar Sarkar, a Krishi Shramik was allowed to retire voluntarily by an order dated 26.02.2014 of Department of Food Processing Industries and Horticulture. The applicant was due to retire on 31.08.2015 and such voluntary retirement was taken on 31.03.2014. Soon thereafter on July 30, 2014, the applicant submitted a representation before the respondent authorities for appointment on compassionate ground due to premature retirement of his father due to illness. After consideration of such representation, the respondent department passed the impugned memo. communicating rejection of such application on few grounds. The primary ground relied by the respondent authorities was that there is no provision for such compassionate appointment for an employee who had retired voluntarily.

The Tribunal having examined the Notification No. 251-Emp. dated 13.12.2013 finds that to be eligible for such employment under compassionate ground, the retired employee should have at least two years of service left. Another condition also makes it necessary that the retired employee should have exhausted all kinds of leave with pay including commuted leave on medical ground. The relevant portion of the Notification No. 251-Emp. dated 13.12.2013 is as under :

*“6. (b) In case of premature retirement the concerned employee had at*

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*least two years of service left to reach the normal age of superannuation and should fulfil the following conditions.*

- (i) On premature retirement he/she would not be entitled to the full pensionary benefits to which he/she would have been entitled if he/she had retired at his/her normal age of superannuation.*
- (ii) He/she has fully exhausted all kinds of leave with pay including commuted leave on medical ground.*
- (iii) The financial conditions of the family is so acute as to make the appointment essential consequent upon the fall in income due to such retirement.”*

The father of the applicant who retired voluntarily had only one year five months and nineteen days for his superannuation from the date of his taking voluntary retirement. Since the law is very clear that such compassionate employment for the legal heir of an employee having retired on voluntary basis should have fulfilled certain criteria, like the example quoted above under 251-Emp., it is clear that this applicant has not succeeded in fulfilling these requisite criteria.

Thus, the prayers, being devoid of any merit, the Tribunal disposes of this application without any orders.

**SAYEED AHMED BABA**  
**Officiating Chairperson & Member (A)**

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