

ORDER SHEET

**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- 304 of 2023**

**Susanta Dangar -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

For the Applicant : Mrs. S. Agarwal,  
Mr. Arup Kundu,  
Ld. Advocates.

04  
19.06.2024

For the State Respondents : Mr. R.K. Mondal,  
Ld. 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 employment on compassionate ground was regretted by the Department on 10.02.2023 primarily on the ground that the proforma application was submitted by the applicant after more than two years from the date of death of the deceased employee. The deceased employee and father of the applicant had died on 04.02.2011 serving as a Chowkidar under PWD, Bankura Office. The applicant's date of birth being 03.01.1990 was a major at the time of death of his father. He submitted his plain paper application on 11.02.2013 followed by the proforma application on 04.06.2013. Such an application was enquired by the Screening-cum-Enquiry Committee and given their financial situation, his case was recommended. From the day of death of the employee on 04.02.2011 till submission of the proforma application on 04.06.2013, the Tribunal observes a delay of only four months in submitting the application. As per the relevant provisions of the Scheme, a maximum time-limit of two years is allowed for submission of the proforma application.

Mrs. Agarwal, learned counsel for the applicant submits that the technical rejection of a mere delay of only four months is not a valid reason. The respondent authorities have failed to consider the spirit of the scheme which was observed by the Members of the Committee and had clearly recommended such an employment. The Committee had also in its report shown in detail how the earnings of the family members have fallen below 90% of the gross salary last drawn by the deceased employee. Such non-consideration of the Committee's recommendation by the respondent authority is also against the very spirit of the Scheme which is extending a helping hand

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to the family after the death of their earning member.

Responding to the submission of Mrs. Agarwal, Mr. Mondal, learned counsel for the State respondents lays emphasis on the sole ground of rejection as given by the Department that such an application which was required by law to be submitted within two years from the date of death of the employee was submitted late by four months. Therefore, such an application was not considered valid and thus, regretted.

Having heard the submissions of the learned counsels and on examination of the records in this application, the Tribunal has observed that the fact of delay even by only four months is not in dispute. Though the applicant was eligible to apply within two years from the date of death of his father but failed to apply within this time. By the time he applied, it was already four months late. From the submissions, it is understood that his elder brother though had applied on time, but subsequently changed his mind. This could be the reason why the applicant's application got delayed by four months. It is also to be appreciated that sensing such a problem, the mother had put in an application in favour of her younger son, this applicant on 28.01.2013 which was after one year eleven months and twenty-four days, very well within the time-limit as stipulated in the Notification. Unfortunately, this letter by the mother was neither acknowledged in the impugned memo nor considered as a merit. From the copy of the mother's letter dated 28.01.2013 addressed to the Additional Chief Engineer (Headquarter), PWD, it is clear that such a letter was indeed received by the Office of the Executive Engineer on the same date. Therefore, it baffles the Tribunal why this important document was not taken into consideration. The Tribunal does not appreciate the action taken by the respondent authority that not only mere delay by four months was taken as the primary ground for rejecting the application but the other important facts related in this matter, like the mother's application on time, the report of the Enquiry Committee were completely ignored. This gives an impression that the respondent authority was pre-mediated in rejecting the application before it was considered. Therefore, not satisfied with the reason of rejection by mere four months delay and ignoring other

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important aspects of this matter, the Tribunal is compelled to find the impugned memo. dated 10.02.2023 by Joint Secretary, Public Works Department untenable and quashable and is thus, quashed and set aside with a further direction to reconsider the entire application for employment on compassionate ground in the light of observations made by this Tribunal in the foregoing paragraphs. Such reconsideration and decision noted down as a reasoned order be passed within three months from the date of communication of this order. Let copy of the reconsidered reasoned order be communicated to the applicant within two weeks thereof.

Accordingly, this application is **disposed of.**

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

CSM/SS