

**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 306 of 2023**

**Koushik Mahata -- VERSUS – The State of West Bengal & Ors.**

Serial No. and  
Date of order

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

For the State Respondents : Mr. D. Kole,  
Ld. Advocate.

05  
05.12.2024

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.

The prayer in this application is for setting aside the impugned order of the respondent dated 28.02.2023 passed by the Joint Secretary, PWD rejecting his application for compassionate employment. The primary reason for such rejection noted in the reasoned order is that the applicant had filed the proforma application on 09.11.2016 which was after more than two years from the date of death of the Government employee. Khagendra Nath Mahata, the deceased employee and the father of the applicant holding a post of Roller Cleaner (Group-D) under the Public Works Department had died on 27.04.2010. The applicant, Koushik Mahata had furnished his application in the prescribed format for an appointment under compassionate ground before the Executive Engineer, Jhargram Highway Division on 05.07.2010. Since the respondent authority had not responded to such an application, the applicant on 09.11.2016 resubmitted copy of the proforma application before the Executive Engineer praying for an appointment under compassionate ground. The impugned reasoned order dated 28.02.2023 had not mentioned the fact that the applicant had earlier on 05.07.2010 had furnished his proforma application before the Executive Engineer. The impugned order relied only on the prescribed application filed by the applicant on 09.11.2016 and treated it as a belated application.

Mrs. Mitra, learned counsel had on the last date of hearing argued that the respondent's side had completely ignored the fact that the applicant had furnished his application in the prescribed proforma on 05.07.2010 within three months from the date of death of his father.

Today, Mr. Kole, learned counsel presents a copy of memo no. 421 dated 23.06.2023 addressed to him by the Executive Engineer, Jhargram

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Highway Division. Submission of Mr. Kole is that as stated by the Executive Engineer, the respondent authority has admitted the fact that the first proforma application filed by the applicant on 05.07.2010 was misplaced and, therefore, was not forwarded to his higher authorities. The relevant lines from this correspondence are as under :

2. “After demise of Sri Khagendra Nath Mahato, the applicant Sri Kaushik Mahata made an application in the prescribed format for appointment on compassionate ground on 05.07.2010. Satisfying on terms and conditions eligible for appointment on stated ground.
3. But due to misplacement of original application made by the applicant along with filled up proforma was not forwarded to the higher authority for consideration of the same.
4. The applicant further applied for employment as compassionate ground on 09.11.2016.
5. Again after complying all the formalities, this office further forwarded all the documents to the higher authority for consideration of the prayer of the applicant for employment on compassionate ground.
6. In 1<sup>st</sup> attempt original application made by the applicant on 05.07.2010 (which was misplaced and not forwarded to the higher authority) was within 6 (six) months from the date of demise of applicant’s father hence the appeal made by the applicant was justified.
7. Rejection of prayer for appointment on compassionate ground in favour of Sri Koushik Mahato was done based on the application made in second attempt i.e. on 09.11.2016.”

From the statement of Mr. Kole based on the facts noted in the letter of the Executive Engineer, it has now become clear to this Tribunal that the first application of the applicant filed on 05.07.2010 within three months from the date of death of his father was misplaced and, therefore, not forwarded and considered. It is also not in dispute that the applicant was found to have

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fulfilled all the requisite criteria for getting an appointment under compassionate ground.

Having heard the submissions of the learned counsels and after examination of the records in this application, in particular the memo. no. 421 dated 23.06.2023 of the Executive Engineer, the Tribunal has come to this conclusion that the impugned order of the respondent authority dated 28.02.2023 rejecting the applicant's prayer for an appointment under compassionate ground was unjustified and not tenable. The fact of his first application made on 05.07.2010 within the permissible time was not considered. Therefore, the impugned order memo no. 52 dated 28.02.2023 is quashed and set aside with a direction to the respondent no. 1, Secretary, Department of Public Works to reconsider the application of the applicant for an appointment under compassionate ground filed by him on 05.07.2010 and take the final decision by passing a speaking and reasoned order within three months from the date of communication of this order. Let copy of the reasoned order to be passed be communicated to the applicant within 2 (two) weeks thereof.

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

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

CSM/SS