

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

**Present-**

**The Hon'ble Sayeed Ahmed Baba, Administrative Member.**

**Case No. –OA-32 of 2022**

**Sayantika Das. - Versus - The State of West Bengal & Others.**

Serial No. and Date of order	For the Applicant	: Mr. M. N. Roy, Advocate.
<u>5</u> 25.04.2022.	For the State Respondents	: Mr. G. P. Banerjee, Mrs. S. Bandyopadhyay, Advocates.

Upon death of applicant's father, Sanjib Das, the applicant's mother made an application stating that she is not well and she would rather have her minor child take up a job under the compassionate employment scheme when she attain majority.

The respondents considered and rejected the application on the ground that the applicant was only 14 years 7 months and 29 days at the time of the death of the father. The Rule 251- Emp dated 03.12.2013

*"4. Provision laid down under para 7 of Memo No. 3326-F dated 05.05.2009 read with amendment under para 3 of Memo No. 4184-F(P) dated 08.08.2016 of Finance Department, Govt. of West Bengal (West Bengal Services (Group-D posts) Recruitment Rules, 2009) as such : "The age of the candidate shall not be less than 18 years and (after amendment) more than 40 years.....".*

*5. In the instant case: date of death-in-harness of the Govt. Employee Late Sanjib Das is 22.09.2014. Date of birth of the applicant Sayantika Das is 24.01.2000. So, on the date of death of the Govt. employee, the applicant was minor since the age of the applicant was 14 years 07 months & 29 days.*

*6. On the other hand as per provision under para 10(a) of Notification No. 251-Emp dated 03.12.2013 read with amendment under Notification No. 26-Emp dated 01.03.2016 of Labour Department,*

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*Government of West Bengal –stipulated period of submission of application for compassionate appointment is 2 years.” is stipulates period of submission of application for compassionate employment is 2 years.*

Having heard both the learned advocates, the Court relies on a judgment passed in W.P.S.T. No. 70 of 2017 (The State of West Bengal & Ors. –Versus- Arup Kumar Chakraborty), the relevant portion is as under :-

*“..... Admittedly, an application was submitted before the authority for compassionate appointment on January 27, 2009, as it appears from a correspondence of the petitioner No.4 (Annexure “C” at page 49 to this writ application). Therefore, it is not in dispute that the application was submitted by the respondent within six months from the date of death of his aforesaid father, which was the time limit framed by the authority for submitting an application for appointment on compassionate ground. It will not be out of context to observe that prior to the above application, the mother of the respondent submitted an informal application dated September 6, 2008 (Annexure “B” at page 43 to this writ application) making a prayer before the authority to consider the name of her son (respondent) for appointment on compassionate ground due to her illness for which she had been under treatment in a Government hospital. It was also mentioned in her representation that she had no other option but to wait till the date of attaining majority of her son to cope with the situation due to sudden death of the sole breadwinner in the family.*

*The authority had chosen to sit tight over the matter for seven years to consider the above application as also to reject that*

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*application taking recourse to the Notification/Government Orders, mentioned hereinabove. ....”*

*“..... This is a fit case to give a mandate to the petitioners/State to give appointment to the respondent within a time limit. The authority is directed to give appointment to the respondent on compassionate ground within a period of three months from the date of communication of this order, provided he is otherwise eligible in a suitable vacancy, which is available now. ....”*

In this case also the applicant, although a minor then had applied for compassionate employment through her mother within the time frame seeking an employment for her daughter when she attains majority.

After considering all the facts and circumstances, the Tribunal set aside the impugned order Memo. No. 140-PW/O/Works(ECG)-3P-17/2020 dated 29.09.2021 and directs the respondent no. 2 to re-consider the application in the light of the judgement “*W.P.S.T. No. 70 of 2017 (The State of West Bengal & Ors. – Versus- Arup Kumar Chakraborty)*” and issue suitable order within a period of 12 weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal.

The case is disposed of.

(SAYEED AHMED BABA)  
MEMBER(A)

S.M.

**ORDER SHEET**

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