

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. - OA 327 OF 2016

SUBHANKAR MANDAL - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant : Mr.Gourav Halder
Advocate

14
22.07.2024

For the State Respondents : Mr.Sankha Ghosh
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 23rd 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 of the applicant for an employment under compassionate ground was considered by the respondent authorities on 14.10.2015. Citing 6(c)(c) of Notification No. 251-Emp., the proposal for such an employment under compassionate ground was regretted. The father of the applicant- Rakhil Chandra Mandal, had died in service on 07.07.2004 as FEOD under the Department of Fire and Emergency Services. The guidelines of 251-Emp dated 03.12.2013 relied by the respondent authorities at 6 (c) (c) says the following:

“The dependent member shall invariably attain the minimum age for recruitment within 6 months from the date of death or incapacitation of the concerned employee”.

His date of birth being 22.08.1994 the applicant a minor even after expiry of 6 months from the date of death of the deceased father. Technically, the respondent authorities were correct in applying this

ORDER SHEET

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particular clause of the Scheme in rejecting the application. Mr.Haldar has submitted, though not disputing the fact that the applicant remained a minor even after 6 months from the date of death of the employee, however, contends that at the time of consideration and rejection of his application on 14.10.2015, the applicant had already attained the age of employment. Mr.Haldar has also submitted that subsequently, this very clause 6 (c)(c) of Notification 251-Emp. was deleted by the amendment made in the Notification 26-Emp. dated 01.03.2016. Submission is that such a clause which was subsequently deleted cannot be applied in this case. Mr.Ghosh, learned counsel for the respondent submits that clause 6 (c)(c) in this case was relevant at that point of time and the prayer was rejected, since the applicant was a minor and remained a minor even after 6 months from the date of death of the employee. Mr.Ghosh, further argues that even if concession of two years was to be given, the applicant would not have attained the age of employment. In support of his contention for the applicant's employment on compassionate ground, Mr.Haldar wishes to file copies of relevant judgements of the Hon'ble High Court and the Hon'ble Supreme Court.

Let such copies of judgements be filed on the next date of hearing. Matter to appear under the heading under the heading "For Orders" on 19th February, 2025.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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