

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 33 of 2021

Tapashi Mondal & Another -- **VERSUS** – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicants : None

For the State Respondent : Mr. M.N. Roy,
Advocate

16
29.01.2025

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.

The prayer in this application is for a direction to the respondent authorities to consider his application for compassionate employment after setting aside the impugned memo no. 3516 dated 29.11.2019. The respondent authority by this memo after considering the proposal regretted the same primarily on the ground that the applicant was a minor boy of only 15 years 4 months and 4 days. The respondent authority relied on the Notification No. 251-Emp. and found such an application as an invalid one due to the minor age of the applicant.

In brief, after the death of her husband, Nitai Chandra Mondal, a Constable with the Kolkata Traffic Police on 19.10.2015, the mother, Tapashi Mondal furnished a plain paper application praying for such an employment on behalf of her elder son, Nayan Mondal. Such application was filed on 08.03.2016. Unfortunately, Nayan Mondal for whom such an application was preferred died on 06.05.2018. Soon after recovery of shock of death of her elder son, Tapashi Mondal furnished one more plain paper application before the respondent authorities on 14.06.2018 and another on 28.05.2019 praying for an employment, now in favour of her younger son, the present applicant, Jyoti Mondal. The respondent authorities as required before finally considering the proposal asked the applicant to appear for Physical Efficiency Test and once completed, a proposal was submitted by the concerned respondent

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authority to their competent authority in the Department of Home and Hill Affairs. The Department after considering the application took the decision that the applicant, Jyoti Mondal was not eligible for such an employment in terms of provisions of Notification No. 251-Emp. dated 03.12.2013. The primary ground relied by the respondent authority was that the applicant was a minor at the time of death of his father on 19.10.2015. Mr. Mukherjee, learned counsel appearing on behalf of the applicant has submitted the following two points :

- (i) the respondent authority completely ignored the fact that the mother had applied on time an application in favour of her elder son. The respondent authority ought to have considered the date of submission of the first application as a valid application. It was God's will that such an application furnished on time but did not live to see the fruit. Forced to support her family by way of an employment, the mother had no option and furnished another application in favour of her younger son. It is an admitted fact that that date of such an application being 14.06.2018 was more than 3 years later from the date of death of the deceased employee and
- (ii) Mr. Mukherjee also had submitted that given the peculiar nature of this case, the respondent authority showing some humanity should have considered 06.05.2018 as the date from which the limitation would have been counted. It is also important as Mr. Mukherjee has submitted that the validity of the second application actually arose only from 06.05.2018, the date the first applicant died.

Appearing on behalf of the State respondents, Mr. Roy, learned counsel relying on the ground taken by the respondent authorities submits that the crucial fact of the applicant being a minor at the time of death of his father has not been disputed and

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this remains the only reason why the application for compassionate employment could not be considered.

It was unfortunate for the family to face the difficult circumstances caused by the death of the elder son who had applied for a compassionate employment on time. By the time it was decided that the younger son would now apply, the time had passed for submission of an application within the time. Besides the lapsed time in applying, another hurdle was that at the time of death of his father on 19.10.2015, the applicant was only 15 years, 4 months and 4 days old. The rules governing the scheme on compassionate employment does not entitle a minor member of the family to be eligible to apply. The contention of the applicants' side was that, instead of 19.10.2015 which is the date of death of the employee, the date of death of the elder son on 06.05.2018 be accepted as the date from which 2 (two) years is taken for submission of an application. The Tribunal does not accept such argument because the rules do not allow changing of the dates from which such applications can be filed. The respondent authorities while regretting the proposal on the ground that the applicant was a minor at the time of death was correct within the legal framework governing the scheme in terms of Notification No. 251-Emp. dated 03.12.2013 with Notification No. 26-Emp. dated 01.03.2016.

Thus, the prayers for a direction to the respondent authorities to give an employment on compassionate ground to the applicant has no merit and is, thus, **disposed of.**

SAYEED AHMED BABA
Officiating Chairperson & Member (A)