

ORDER SHEET

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 342 OF 2023**

SUVROJIT BOURI - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant : None

04
24.01.2024

For the State Respondents : None

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.

Despite several calls none has appeared on behalf of the parties. Today, the matter was listed for pronouncement of the order in this matter. Due to absence on behalf of the parties, the Tribunal has no option, but to pronounce this order in open Court.

The prayer in this application is for setting aside the impugned orders of the respondent rejecting the application for appointment under compassionate ground. The application was rejected by the respondent vide Memo. No. 337 dated 10.04.2015 on the ground that the applicant was a minor at the time of death of his father. Thereafter, the applicant furnished representations requesting for reviewing the decision. On 08.01.2020, the respondent Department reviewed the decision and rejected the prayer on the same ground that the applicant being a minor at the time of death of the deceased employee.

The father of the applicant was a Stock Chowkidar under Assistant Engineer, P.W.D., Raghunathpur Sub-Division, who died in harness on 21.07.2011. At the time of death of the government employee, the applicant was 16 years 9 months and 9 days. The application for employment under compassionate ground was rejected on the ground that the applicant was under aged at that time.

The eligibility criteria mentioned at (6) Note (c) of notification No.251-Emp, dated 3rd December, 2013 required the dependant member to have attained the minimum age of requirement within six months from the date of death of the employee. This provision was deleted by a notification No.26-Emp dated 1st March, 2016. Now, while considering such belated request, the new clause 10(aa) added to notification No.251-Emp points out as follows :

“In exceptional cases such as (i) death during action (ii) where none in family is eligible etc., departments can consider requests for compassionate appointment even where the death or retirement on medical grounds of a Govt. servant took place upto five years ago. While considering such belated request the “Three-Member Screening- cum-Enquiry Committee should, however, keep in view that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of the Govt. Servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years should normally be taken as adequate proof that the family had some dependable means of subsistence. Therefore, examination of such cases could call for a great deal of circumspection at all levels. The dependent member must invariably attain the minimum age of appointment at the time of consideration.”

Though the Tribunal finds such rejection on the ground of the applicant being a minor was made but the impugned correspondence does not mention any provision of the law by which such application was rejected. A prayer for reconsideration of the decision was also made and the earlier decision was again communicated to the applicant.

From the above facts and circumstances, it is clear that :-

- (i) The impugned order though rejecting the application for compassionate appointment does not rely on any provision of law. Rejection merely on a ground is not sufficient. The reasoned order ought to have relied on a specific provision of a law and taken the decision. In this case, however, though the application was rejected on the ground that the applicant was a minor, but the respondent authority has not cited that particular provision of the law by which such decision was taken.
- (ii) The applicant at the time of his father's death was almost an adult, just short of one year and three months. At this age, he was already a young man and able to shoulder the responsibility to look after his dependant family members. The exact age of 18 years to be eligible for such employment is a technical requirement. Besides, one should look beyond this technical requirement and see whether the son of the deceased father at 16 plus was capable to take up employment and look after his family members. By mainly sticking to a particular figure and ignoring the spirit of the

law, rejection of the application does not confirm to the spirit of the Scheme.

- (iii) Further, it is to be appreciated that the objective of this compassionate employment scheme is to extend a helping hand to the family members and find out if by death of the bread-winner the family has plummeted into serious financial and economic despair. The report of the Three-Men Screening-cum-Enquiring Committee, who after visiting the house and meeting the family members, is absolutely clear that the family is in serious jeopardy and needs assistance. From the reading of this report, the Tribunal gets the impression that it was a realistic assessment and depicted the true picture of the economic condition so faced by the family. Some of the relevant points noted by the Committee are worth quoting below :

“Monthly income from movable and immovable properties is ---NIL (Not countable)”.

“At present, the family of Late Dilip Bouri is suffering from financial problem.” The son of the deceased *“needs financial assistance for maintenance of family requirements.”* *“On enquiry it is found that prayers of the candidate is genuine and his prayer for employment in Group-D post may be recommended.”*

It is also to be noted that the members of the Committee were senior Engineers of the Department.

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After closer examination of this matter, the Tribunal comes to the conclusion that though there is a shortfall of only one year three months to be eligible for compassionate employment, this applicant otherwise fulfils all other eligibility requirements of the scheme. But the most important point the Tribunal has observed is that, as indicated by the Enquiring Committee, the applicant belongs to a very poor family, save and except the family pension of the widow, there does not appear to be any other source of income. Thus appreciating the very spirit of the Scheme and having faith in the Government's munificence, it is the finding of this Tribunal that the impugned order ignores the spirit of the Scheme by mainly sticking to a technicality and not appreciating the spirit of the Scheme. Therefore, the impugned decision taken by the respondent authorities, Memo No.337-PW/O/EII/3P-23/14 dated 10.04.2015 is quashed and set aside with a direction to the respondent No.1, the Secretary, Public Works Department to pass an order offering employment on compassionate ground in the post of Group 'D' to Suvrojit Bouri, the applicant within three months from the date of communication of this order and communicate the same to the applicant within three weeks thereof.

The application is disposed of.

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

SCN/BLR