

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 345 of 2024

Sujay Kumar Biswas -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. Sourav Bhattacharjee,
Ld. Advocate.

For the State Respondents : Mr. G.P. Banerjee,
Ld. Advocate.

05
07.08.2025

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 setting aside the reasoned order dated 30.05.2024. The impugned order passed by the Secretary relating to his prayer for an employment under compassionate ground. In terms of a direction of this Tribunal in OA 296 of 2020, such reasoned order was passed regretting compassionate appointment on the ground that the proforma application was submitted by the applicant after more than two years from the date of death of the deceased employee. The reasoned order also observed that the applicant did not fulfil the educational criteria required for such an appointment.

Father of this applicant working as a Roller Cleaner under the Assistant Engineer, Alipore Sub-Division of PWD died on 15.08.2011 while in service. Soon after his death, both the mother on behalf of the applicant, the son and the applicant himself prayed for an employment under compassionate ground on 08.10.2011. Copies of the plain paper application shown that such an application was received in the office of the Executive Engineer, Alipore Division. In terms of the guidelines of this scheme, an applicant is required to furnish the proforma application within two years from the date of death of the deceased employee. Copy of proforma application annexed in this application was examined by the Tribunal, but no date is visible. According to the reasoned order, such proforma application was furnished by the applicant on 04.10.2016. Since no date is visible in the proforma application

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nor the date of 04.10.2016 has been contested by the applicant's side, the Tribunal accepts the date of submission of proforma application as 04.10.2016, which is around five years from the date of death of the deceased employee. This was the first reason of rejection shown in the reasoned order passed by the Secretary, Public Works Department, which was duly communicated to the applicant on 30.05.2024.

The second ground relied on for rejection of the applicant's application and shown in the reasoned order is that the applicant did not fulfil the educational qualification. In terms of relevant rules, any applicant praying for an employment under compassionate ground was to have minimum Class-VIII passed educational qualification. Since the applicant could not furnish any certificate of having passing Class-VIII examination, the respondent authorities regretted his prayer of this second ground. It has also come to light that earlier this Tribunal in OA 475 of 2023 had given the liberty to the applicant to file a representation before the respondent authorities praying for relaxation of the educational qualification. It has been pointed out by the respondent's counsel that both the applicant furnished a representation, but he did not pray for such relaxation. Copy of the certificate issued by one KHARIBERIA VIVEKANANDA VIDYAPITH (H.S.), Dist. South 24-Parganas in No. 95 dated 10.02.2017 certifies that Sujoy Kr. Biswas, the applicant was "reading" in Class-VIII during the session 2002-2003. The applicant also in his representation at para 17 admits that he was reading in Class-VIII during 2002-2003, but did not appear in the Annual Examination in March 2003.

Mr. Bhattacharjee arguing on behalf of the applicant's case submits that as evident from the date of submission of the plain paper application, the applicant within the permissible time and with the intent complied for such employment filed his plain paper

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application within two years from the date of death of his father. However, the proforma application was handed over to him by the office of the Executive Engineer after long lapse of five years.

The applicant being ignorant of the rules had completely relying on a trustee the officials who are dealing with his case. Had the applicant been supplied a proforma application by the officials and advice to submit soon, he would not have delayed such submission. Since the plain paper application was submitted well within the time, the respondent authorities cannot blame the applicant for delayed submission of proforma application because the proforma application was supplied to him.

In support of the circumstances described above, Mr. Bhattacharjee files and relies an order of this Tribunal in OA 681 of 2023.

As regards the second ground of rejection, which is lack of educational qualification, Mr. Bhattacharjee points out that in terms of Notification No. 251-Emp., the respondent authorities has the power to relax the minimum educational qualification which is Class-VIII passed. Admitting that the applicant could not produce any certificate showing qualification of Class-VIII passed, he wonders instead of relying on Notification No. 251-Emp., the respondent authorities refers to a policy of the Department in 23.12.2019. The respondent authorities has seriously erred in relying on an irrelevant Notification instead of relying on 251-Emp. under which they had the power to relax the educational qualification.

From the records and submissions, it is evident and not being disputed, that the applicant furnished the proforma application after five years from the date of death of his father. In terms of relevant rules stipulated in the Notification No. 251-Emp., such proforma application was required to be furnished by the applicant within two years.

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As regards the relaxation of the educational qualification, the provision relating to such relaxation as stipulated in the Notification No. 251-Emp. is the complete discretionary power of the respondent authority. Since it is not mandated on the respondent authority to relax, the respondent authorities cannot be faulted for not relaxing the educational criteria. Further, although the applicant was given liberty by this Tribunal in the earlier application, though he furnished a detailed representation, but failed to pray for relaxation in educational qualification.

From the above observations, the Tribunal is satisfied that the respondent authorities had taken the correction decision and such decision was very well within the four walls of the law.

Thus, finding prayers in this application devoid of any merit, it is **disposed of** without passing any order.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

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