

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 419 OF 2017

MONORANJAN BASAK

- VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and Date of order	For the Applicant	:	Mr.Soumendra Narayan Ray Mrs.Subarna Das Advocates
<u>17</u> 06.04.2023	For the State Respondents	:	Mrs.Sunita Agarwal 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 in this application is for setting aside the impugned order passed by the respondent, the Director of Health Services on 06.05.2014. From the submissions of the learned counsels and the records, the following are observed:

(i) Deceased employee, the father of the applicant- Naresh Chandra Basak died in harness on 25.01.2009 and the applicant submitted his application for compassionate employment which was finally turned down by the respondent on the ground that his prayer in the prescribed proforma was filed on 22.05.2012 after a lapse of more than three years from the date of death of the ex-employee.

(ii) Mr.S.N.Ray, however, disputes the date mentioned by the respondent and instead refers to page 27 to 29 which is a copy of the proforma application reportedly submitted by the applicant in which a date appears to be 29.04.2011 and not a very clear stamp impressed below the date first somewhat appears to be as B.M.O.H. Milki, P.H.B. Malda.

ORDER SHEET

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(iii) Mrs.S.Agarwal refers to the dates and submits that this application filed before the Tribunal is barred by limitation. This application was filed on 11.05.2017 before this Tribunal and the impugned order which is being challenged was issued by the respondent on 06.05.2014, therefore, there is a clear lapse of three years delay in filing this application before the Tribunal.

After hearing the submissions of the learned counsels and examining the records, it is my opinion that the application filed before the Tribunal is barred by limitation. The applicant could have come to the Tribunal challenging the impugned order of 2014 earlier. Thus, there is a clear delay of more than three years in filing this application and no reason has been given for such delay.

Secondly, his application for compassionate employment was rejected by the respondent on the ground of delayed filing of application. As per the impugned order, after the death of the employee on 25.01.2009, the proforma application was submitted on 22.05.2012 after lapse of more than three years. This delay has not been challenged to the satisfaction of the Tribunal by way of showing documentary evidence on the contrary. In fact, the photocopy of the proforma application relied by the applicant appearing at page 27-32 is itself not very clear and readable, specially the signature and rubber stamp impressed on each page. Therefore, I am not able to rely on these documents as proof of having submitted the proforma application well within the time line. In view of the above observation, this application is disposed of without any order.

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

BLR