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 440 of 2020

Ganesh Chhetri -- VERSUS – The State of West Bengal & Ors.

Serial No. and Date of order		
	For the Applicants	: Mr. A. Ghosh, Ld. Advocate.
	For the State respondent	: Mr. G.P. Banerjee, Ld. Advocate.
12 15.06.2023		

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 compassionate employment was rejected by the respondent on 19.12.2019 on the following two grounds :

"1. The candidate was minor (13 years 28 days) at the time of date of death of deceased employee.

2. The Belated Clause 10(aa) of 26-EMP. Dated :01.03.2016, is not applicable here as the candidate was not the only eligible candidate at the time of date of death of the deceased employee."

Challenging the above impugned order, the applicant has filed this application before this Tribunal.

Mr. A. Ghosh, learned advocate appearing on behalf of the applicant contends that the impugned order is wrong in rejecting the application for the fact that (i) of 10(aa) of Notification No. 26-Emp. allows an application for compassionate employment upto 5years from the date of death of the deceased employee. Since the applicant was 13 years on the day of the death of his father, by another 5 years, he had already attained adulthood and was eligible for compassionate employment. Mr. Ghosh also submits that although his mother was otherwise eligible but since she did not have educational qualification of Class-VIII, therefore, she could not apply. In view of above submissions, Mr. Ghosh prays for a direction to the respondent to reconsider their decision.

In response to the submissions of Mr. Ghosh, Mr. Banerjee, learned

advocate for the State respondent submits that while the mother of the deceased employee was eligible, but she did not apply for herself. Even presuming that she did not have the educational qualification of Class-VIII, but had she applied, such criteria could have been relaxed for her under Note (b) of para 6 of Notification No. 251-Emp. dated 03.12.2013. Since the family could endure and sustain itself for so many years, the purpose of providing immediate assistance in the form of a Government employment was not felt necessary in this case.

After hearing the submissions of the learned counsels, the Tribunal is of the view that the proviso under column (ii) of 10(aa) of Notification No. 26-Emp. is not applicable for this applicant. Since the mother was otherwise eligible, if she had applied for relaxation of educational qualification; but no such application was made by her for her own employment. The very fact that the applicant was a minor, which has not been disputed. at the time of death of his deceased father, no Government Rule allows a minor child to be offered compassionate employment at that point of time or when he attains the age of 18 years. It is clear that the very word *"compassion"* is a hand - holding support offered by the Government in the form of employment to the family of the deceased employee at the time of death. Such support is considered to be necessary at the time when the employee dies leaving the family without any source of income. It is not an open-ended scheme where employment can be offered to the family to a child of the family when he grows up. In this case, the applicant was a minor of 13 years and, thus, not eligible under the existing Rules. Therefore, it is the opinion of the Tribunal that the respondent was right in passing this impugned order rejecting his application for compassionate employment.

Accordingly, the application is **disposed of** without any orders.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)