

**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 461 OF 2022**

**SURAJ ROUTH - VERSUS- THE STATE OF WEST BENGAL & ORS.**

Serial No. and Date of order	For the Applicant	:	Mrs. K.Kulsum Advocate
<u>05</u> 09.03.2023	For the State Respondent	:	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 23<sup>rd</sup> 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.

Mrs. K.Kulsum files supplementary affidavit, a copy has been served to the learned counsel for the respondent and accepted.

The prayer in this application is for compassionate employment which was considered and rejected by the respondent on the ground that the application was submitted after a lapse of more than 3 years. The respondent cites the Labour Department's Notification No. 251EMP read with 26 EMP and rejected the prayer. In the supplementary affidavit submitted, learned counsel relies on the enquiry report which was in favour of the applicant. Submission of Mrs.K.Kulsum is that the enquiry report was submitted on 28.06.2016 and the authority rejected this application after 6 years.

Mrs.S.Agarwal, learned counsel for the respondent submits that at the time of the death of the deceased employee, the applicant had already become an adult and thus, should have applied within the permissible time limit and whereas, the employee had died on 11.10.2012 after a gap of more than 6 years.

Mrs.K.Kulsum, submits that within the time limit, the mother of the applicant

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Laly Routh has submitted a plain paper application before the Medical Superintendent-cum-Vice Principal, Burdwan Medical College & Hospital, Burdwan, which was duly received his office on the same date and as appears in page No. 14, the proforma application was also submitted by the mother of the applicant for compassionate employment of her. Later, as submitted by the learned counsel, due to illness of not being fit for compassionate employment, she withdrew her application and instead for herself, Suraj Routh, the present applicant has submitted his application for himself on 13.03.2021 before the Burdwan Medical College & Hospital, Burdwan. Later, the applicant submitted the proforma application on 05.04.2016. Submission of the learned counsel for the applicant is that the respondent while passing the impugned order, ignored the fact that within the time limit the mother had applied both in plain paper and proforma. But, due to her illness, she had to withdraw her application and the son, the present applicant applied.

Submission is that in a poor family, where the bread winner has already died, the respondent should have considered the application of the son, although submitted belated for the reasons as stated above. Moreover, the enquiry committee after proper enquiry, submitted its report on 28.06.2016 recommending on favour of the applicant, this was not considered by the respondent while passing the reasoned order. The relevant portion of its recommendation is as under:

*“So, Committee is recommending the name of the applicant as a candidate fit for receiving Govt. service due to sudden death of govt. employee Lt. Uma Shankar Routh, Ex-Sweeper, of B.M.C&H, Burdwan on compassionate ground.”*

Mrs. S.Agarwal submits that the respondent while relying on the extent rule considered and rejected the application which was submitted after 3 years.

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Mrs.K.Kulsum prays for adjournment so that by the next date she will submit relevant Apex court judgements in this regard.

Let the matter appear under the heading "For Orders" on 12<sup>th</sup> April, 2023.

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

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