

**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 - Vs - THE STATE OF WEST BENGAL & OTHERS.**

Serial No. and  
Date of order

07  
21.06.2023

For the Applicants : Ms.K.Kulsum  
Advocate  
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 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.

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 Ms.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.

Ms.Kulsum, submits that within the time limit, the mother of the applicant, Laly Routh has submitted a plain paper application before the

Medical Superintendent-cum-Vice Principal, Burdwan Medical College & Hospital, Burdwan, which was duly received by his office on the same date 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, her son, Suraj Routh, the present applicant had submitted his proforma application on 05.04.2016 before the Burdwan Medical College & Hospital, Burdwan. 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 in favour of the applicant. This was also 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. Agarwal submits that the respondent while relying on the extent rule considered and rejected the application which was submitted

after 3 years. Although the applicant himself was an adult at the age of around 22 years, being an adult eligible, the applicant could have applied for compassionate employment for himself within two years from the date of death of his father.

From the submissions of the learned counsels and documents in this application, the following observations are noted.

(i) That the mother had applied for herself but later withdrew to make room for her son as the applicant for compassionate employment.

(ii) 25.02.1990 being the date of birth of this applicant, Suraj Routh, proves that he was at the time of his father's death 22 years or so and thus, eligible to apply for compassionate employment. However, for reasons better known to the family, he did not apply for himself though being eligible within two years stipulated period.

(iii) When he applied on 05.04.2016 before the respondent authority, the stipulated two years period for application had already expired. This was the main reason of rejection of his application by the respondent authority.

(iv) Although the enquiry committee in its report dated 28.06.2016 recommended the case for the applicant's application for compassionate employment, but, the recommendation was more on humanitarian ground of the applicant being unemployed and facing hardship.

That from the above observations, no plausible or convincing reason has been put forth by the applicant as to why, though being eligible, he did not apply for compassionate employment within two years.

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Learned counsel for the applicant feels that since the mother had applied within two years time period till she withdrew the application, by then two years time period had expired when the applicant submitted his application. From such reasoning, the Tribunal is not satisfied and thus, uphold the impugned order rejecting the application of the applicant having applied after lapse of more than three years. The respondent was right in interpreting the relevant rules and rejecting his application.

Therefore, the application is disposed of without any orders.

BLR

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