

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Bikash Bhavan, Salt Lake, Kolkata – 700 091.**

**Present-**

**Mr. Sayeed Ahmed Baba, Officiating Chairperson and Hon'ble Member (A).**

Case No. – OA 526 of 2022.

NIRUPAM DHAR - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

04  
22.02.2024

For the Applicant : None.

For the State Respondents : Mr. S. Bhattacharya,  
Learned 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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

The application for compassionate employment was considered and rejected by the respondent authorities on 05.07.2022 on the ground that the applicant was a minor of only 4(four) years at the time of death of his mother. As per the impugned order, the applicant had applied for such employment on 25.03.2021, i.e. 16 years after the death of his mother. Invoking clause 6(c) and 10(a) of 251-Emp Notification read with 26-Emp dated 01.03.2016, the prayer of Nirupam Dhar for appointment on compassionate ground was thus rejected. Mr. M. Chatterjee, learned counsel for the applicant draws attention to page 16 of this application and submits that as mentioned in the impugned order, the proforma application was submitted on 25.03.2021 but it ignored the fact that earlier on 14.12.2020, a plain paper application was submitted before the Chief Medical Officer of Health, Cooch Behar. As evident from the copy of the application, such plain paper application was also forwarded by the CMOH to the Director.

Responding on behalf of the respondent authorities, Mr.S. Bhattacharya, supporting the reason for rejection submits that though the applicant being a minor was not eligible, but his father, Nikhil Chandra Dhar was eligible for

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such employment but he did not apply.

It is not a disputed fact before the Tribunal that the applicant was a minor of only four years old, therefore, not eligible for an employment under compassionate ground as per the extent rule under 251-Emp ead with 26-Emp. After the death of the employee, Shila Dutta, her husband though, eligible for such employment had not applied for himself. From this, it can be assumed that the family had hoped for an appointment for the son when he would attain adulthood after fourteen years. It is well settled law that compassionate employment is neither a fundamental right nor such right is vested upon the family. Only upon satisfaction of the State that, due to the sudden death of the earning member in the family, the financial condition of the family has come under serious challenge nor employment can be considered. It is only a gesture of goodwill to help the bereaved family elevate from the dark financial crises. In this case, the very fact that the family could sustain itself financially for the next fourteen years is a clear indication that the family did not need any economic assistance in the form of compassionate employment.

With the above observation, the Tribunal doe not find merit in the prayer for setting aside the impugned order which had rejected the application on a valid ground as stipulated in the Notification Emp-251 and 26.

Therefore, this application is disposed of without passing any orders.

(SAYEED AHMED BABA)  
Officiating Chairperson and Member (A).

Sk.