

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 556 of 2022

Khokan Hansda -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. S.K. Chakraborty,
Mr. M.K. Ghosh,
Ld. Advocates.

05
26.04.2023

For the State respondent : Ms. R. Sarkar,
Mr. S. Debroy,
Mrs. A. Bhattacharya,
Mr. R. Bag,
Deptl. Reps.

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.

Rejoinder filed on behalf of the applicant today be kept on record.

The application, in brief, is the applicant's father Haripada Hansda working as a Peon under B.L. & L.R.O., Datan-I, Paschim Medinipur died-in-harness on **15.02.2006**. Soon after, the widow, mother of the present applicant, Chhotonani Hansda submitted a plain paper application on 10.03.2006 in favour of her son, the present applicant, who was a minor at the time of the father's death. This application was enquired by a Three-men Committee which submitted its report to the S.D.L. & L.R.O., Kharagpur on 03.04.2009 (although at page 7 of the application, 2019 is mentioned as the year which the learned counsel for the applicant submits that it is due to typo mistake). Subsequently, the Director of Land Records & Surveys submitted the proposal for compassionate appointment to the Joint Secretary of the Department on 12.11.2014. The appropriate authority considered the proposal and rejected the same on 30.03.2015 on the ground that the applicant was a minor of 14 years 7 months and 5 days on the date of death of his father. Therefore, relying on para 6(c)(c) of Notification No. 251-Emp. dated 03.12.2013, the prayer for compassionate employment was rejected.

Challenging this impugned order of rejection, the applicant has filed this application seeking setting for aside the impugned order on the following

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grounds :

- i. It is admitted that the applicant was a minor at the time of death of his father, but he had attained majority at the time when this application was considered in the year 2015.
- ii. That, although the Three-men Committee recommended compassionate employment in favour of the applicant, but the final authority did not consider its recommendation. However, the learned counsel for the applicant could not produce a copy of the Three-men Committee's report.
- iii. Although, the application was considered in the year 2015, but no copy was communicated to the applicant, therefore, the filing this application was delayed.

In response to the submission of the learned counsel for the applicant that the applicant was not served a copy of the reasoned order, Ms. Sarkar refers to a correspondence kept in this file which is dated 30.12.2022 addressed by Additional District Magistrate and D.L. & L.R.O, Paschim Medinipur to the applicant, Khokan Hansda. In this correspondence, the applicant has been informed that vide Memo. No. 1562/ISU/2P-137/12 dated 30.03.2015, the impugned order was communicated to him vide Memo. No. 122/781(2)/BI/10/2 dated 24.04.2015, however, one more copy is enclosed for his reference.

From the above submissions and records, it is understood that the applicant was a minor at the time of his father's death, which is not disputed by the applicant's side. It is also clear that at the time of death of the employee, the widow was eligible for compassionate employment, however, she did not apply for herself rather she submitted an application in favour of the present applicant, who was a minor at that time. The Notification No. 251-Emp. at para 6(c)(c) cited as the reason for rejection, states the following :

“The dependent member shall invariably attained the age for recruitment within six months from the date of death or incapacitation of the

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concerned employee.”

It is also noted that the submission made by the learned counsel for the applicant regarding the applicant having attained adulthood at the time of consideration of his application in 2015 and thus eligible for compassionate employment is not supported by any Rule. The learned counsel for the applicant has not been able to support this claim on the basis of any Rule. The submission made that after the consideration, the respondent failed to communicate the decision to the applicant has been negated and contradicted by the respondent by referring to the Memo. No. 8041/G/WBAT/K/DAN-I/09/2022 dated 30.12.2022 in which the applicant has been informed that by Memo. dated 24.04.2015, the decision of the respondent regarding the application was communicated to him and a copy been enclosed with the letter.

Thus, the ground for filing this application after 7 years is weak and not supported by any valid reason. From page Annexure R-2, it is evident that a copy of the reasoned order was communicated to the applicant on 24.04.2015.

After hearing the learned counsels and considering the observations, the Tribunal is of the opinion that this application was filed after a gap of seven years, thus, it is inadmissible by limitation. Besides, as the law is very clear since he was a minor at the time of his father's death, therefore, his eligibility was not considered. Such consideration and rejection of his application was validly based on 6(c)(c) of the Notification No. 251-Emp.

Based on the above observations, the application is **disposed of** without any order.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)