

**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 585 of 2023.

SMT. TUKUL SARKAR - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

03  
08.02.2024

For the Applicant : None.

For the State Respondents : Mrs. S. Agarwal,  
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 applicant has prayed for setting aside the impugned Memo. 161 dated 05.06.2023. In this Memo, the Joint Secretary of the Department informs the Superintending Engineer, Northern Highway Circle that the application for employment under compassionate ground cannot be accepted due to the fact that the deceased employee was a work charged employee at the time of his death.

Mr. K. Chakraborty, learned counsel though accepting the fact that the deceased employee was a work charged employee, prays for such an employment due to the fact that the widow as the applicant is in serious financial condition with an unmarried daughter at home.

In a similar matter in which the applicant was also a work charged employee, the Hon'ble High Court in WPST 99 of 2020 had passed an order, the relevant part is as under :-

After hearing the learned counsels for the parties and perusing the records, it is evident that the father of the applicant was a work charged employee and not a permanent employment. So far the claim is concerned, it is clear that only legal

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heirs of regular and permanent employees are eligible and not the family members of work charged employees and employees not belonging to any permanent establishment.

It is a well settled matter and there are several judgements of the Hon'ble Apex Court and Hon'ble High Courts. In a matter relating to Sujit Dalui – vs- the State of West Bengal and others, the Hon'ble High Court (Appellate Side) in WPST 99 of 2020 passed an order confirming that legal heirs of work charged employees are not entitled for such compassionate employment. The relevant part of the judgement is as under :-

*“...In as much as, from the pleadings made in the writ petition and the submissions made on behalf of the writ petitioner before the Tribunal as recorded in the impugned order, it is further evident that, the father of the writ petitioner was a work charged employee. He at best can be said to have acquired the status of the permanent employee in view of the provisions laid down in the said Memorandum No.9008 dated September 16, 2011, which entitled him to certain benefits including pension. This, however, will not, ipso facto give any right to him the status of a government employee. In as much as, the relevant rules vide the said notification of the Labour Department dated December 3, 2013 further make it clear that the dependent family member of a government employee can claim compassionate appointment. In the instant case, the father of the writ petitioner being a work charged employee cannot be termed a government employee within the meaning of the said notification and as such the writ petitioner even if a dependant family member of the deceased employee cannot claim compassionate appointment..”.*

In view of above observation, the Tribunal is of the considered view that the impugned order does not suffer from any illegality and was passed in accordance with the law.

This application stands disposed of without passing any order.

Sk.

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

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