

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 623 of 2023

Soumyapriya Saha -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mrs. S. Mitra,
Ld. Advocate.

For the State Respondent : Mr. A.K. Das Sinha,
Ld. Advocate.

04

13.01.2025

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.

By filing this application before this Tribunal, the applicant has prayed for setting aside the impugned memo no. 139 dated 07.12.2022. This memo contained the decision of the respondent authority regretting an employment on compassionate ground for the applicant. The reason for such rejection was that the applicant was only 11 years old, a minor at the time of death of his mother, Puspa Mandal. Puspa Mandal, the mother of the applicant was holding the post of G.N.M. Nursing Staff (Staff Nurse, Gr. II), at Malda Medical College and Hospital and after serving in this capacity for a period of 16 (sixteen) years, she died on 13.07.2009. It is not in dispute that the applicant was a minor of around 11 years only at the time of death of his mother. From a correspondence dated 17.08.2010 addressed to the Chief Medical Officer of Health, it appears that a plain paper application was forwarded by the Superintendent of the hospital. From the copy of the proforma application, it is clear that the hospital authorities received the same on 03.01.2018.

Mrs. Mitra, learned counsel for the applicant has submitted that though it is admitted, the applicant was a minor at the relevant point of time, but it has to be appreciated that the respondent authorities at the time of taking the final decision on 07.12.2022, the applicant had attained the age of employment. Therefore, her submission is that at the time of consideration of his application, the applicant had already attained the age of employment and rejection on the ground of his minor on 13.07.2009 is not a valid decision.

In response to what Mrs. Mitra has submitted, Mr. A.K. Das Sinha, learned counsel for the State respondents emphasises that a minor boy as an applicant for compassionate employment is not entitled to in terms of clause 6 (cc) of Labour Department Notification No. 251-EMP dated 03.12.2013. The cited

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Rule is as follows:

6 (cc) “applicant for compassionate appointment should be eligible and suitable for the post in respect of under the provisions of relevant recruitment Rules”.

Submission of Mr. Sinha is that, as clear from this Rule, the applicant’s application could not have been considered within two years from the time of death of the employee since had remained a minor and was thus not eligible for employment. The fact of his being a minor and remaining minor till two years from the date of death of the employee does not entitle such an employment even if the final decision was taken by the respondent authorities at a later date.

Having heard the submissions of the learned counsels, it is clear to this Tribunal and which is not disputed that the applicant was a minor boy at the time of death of the deceased employee. Although by Notification No. 251-Emp. dated 03.12.2013, two more years of time is relaxed for submission of an application but considering he was only 11 years or so at the time of death of his mother, even two years benefit would not have served any purpose. The argument that at the time of consideration of his application, the applicant had attained the age of employment is not an acceptable argument. The Rules governing the schemes of compassionate employment has made it clear in section 6 (cc) that an applicant should be eligible for such an employment as per the recruitment Rules. Thus, having heard the submissions and after considering the documents, the Tribunal is of the view that the applicant’s prayer for an employment on compassionate ground has no merit.

Accordingly, this application is **disposed of** without passing any orders.

CSM/SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)