

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 624 of 2022.

SWAPAN SOREN - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

07
04.4.2024

For the Applicant : Mrs. S. Agarwal,
Advocate.
For the State Respondents : Mr. G.Halder,
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 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 counsel for the contesting parties, the case is taken up for consideration sitting singly.

In this application, the applicant has prayed for a direction upon the respondent authorities to dispose of his application for employment under compassionate ground. In the supplementary application filed, the applicant's side has presented a copy of memo 1028 dated 24.4.2023. By this memo, the department of Agriculture has expressed their decision that such a compassionate employment cannot be considered in the light of clause 10(a) of Notification 251-Emp read with 26-Emp. The relevant laws of 10(a) and 26-Emp are as under :-

10) (a) “.....If the family of the deceased or the employee retired on being permanently incapacitated is in need of financial assistance and the same is absolutely necessary to support the family, application for employment is to be submitted within six months from the date of death or retirement on permanent incapacitation. If no application is submitted within the said period it will be presumed that the family does not require any financial assistance. In no case application submitted after expiry of the above period will be entertained...”.

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<i>Existing Clause/Para No.</i>	<i>Existing provision</i>	<i>Revised Provision</i>
<i>10(a) of Notification No. 251-Emp. dated 03.12.13</i>	<i>If the family of the deceased or the employee retired on being permanently incapacitated is in need of financial assistance and the same is absolutely necessary to support the family, application for employment is to be submitted within six months from the date of death or retirement on permanent incapacitation. If no application is submitted within the said period it will be presumed that the family does not require any financial assistance. In no case application submitted after expiry of the above period will be entertained.</i>	<i>TIMELINES:- If the family of the deceased or the employee retired on being permanently incapacitated is in need of financial assistance and the same is absolutely necessary to support the family, application for employment is to be submitted within two years from the date of death or retirement on permanent incapacitation. If no application is submitted within the said period it will be presumed that the family does not require any financial assistance.</i>

From the submissions and records, it appears that after the death of deceased employee on 09.4.1998, the widow, mother of the applicant had furnished a plain paper application praying for a compassionate employment for herself. Later she withdrew this application in the year 2014 and she died in 2018. The applicant was a minor at the time of death of his father and when he attained the age of employment, an application was submitted before the respondent authority on 14.3.2016 followed by proforma application on 18.02.2021. It is not in dispute that the applicant was a minor at the time of death of his father and only after attaining the age of employment, an application was furnished before the respondent authorities. Though the mother had applied on time for herself, but now the question of consideration of her application does not matter because she has expired.

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The only question to be examined is whether the application furnished by the applicant is valid or not?

By the above clause in the notification, an application for compassionate employment could be submitted within two years from the date of death of the employee. In this case, it has become clear that not only the applicant was a minor at the time of his father's death, but his application was submitted only after he had attained the age of majority, after a lapse of sixteen years. Therefore, the Tribunal does not find this application to be valid and admissible and the respondent authorities were correct in taking a decision relating to such prayer.

Having found no merit in this application, this application is disposed of without passing any order.

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

Sk.