

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 658 of 2021

Dipankar Hore -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : Mr. Sourav Bhattacharjee, Ld. Advocate.

For the State Respondents : Mr. G. Halder, Ld. Advocate.

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22.01.2025

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.

In this application, the prayer is for directing the respondents to set aside the impugned order dated 18.02.2021 issued by the respondents. In the impugned order, the application for compassionate appointment was considered and rejected on the following grounds which is quoted as under :

“... his application for compassionate appointment has been rejected as his family income exceeds 90% of the gross monthly salary of the employee before death and it also exceeds minimum salary of Group-C employee as per rules and conditions as laid down in rule 6(a)(i)&(ii) of the Notification No. 251-Emp. dated 03.12.2013 of Labour Department, Govt. of West Bengal.”

Mr. Halder, appearing on behalf of the respondents submits that in support of the reason a detailed financial calculation has been shown to prove that the total family income of the applicant exceeds more than 90% of the last gross salary of the deceased employee before his death. Therefore, the applicant is not entitled for compassionate employment and was thus rejected.

It appears that in the rejoinder, the applicant has not challenged the calculations as shown in the reply by the applicant. Therefore, the reason of rejection total family income being more than 90% as shown in the calculation sheet has not been controverted by the applicant.

In the reply, the calculation sheet has been enclosed showing details of the income being earned by the family. As per this sheet the total monthly earning of the family which includes family pension and interest @8% comes to Rs.21,336/- which is more than 90% of the last gross monthly salary earned by the deceased employee, which was Rs.18,826/-.

Submission of Mr. Bhattacharjee is that Sl. No. 3 of Notification No. 419/Law, it has been made clear that in stead of 8% interest per annum, the “prevailing rate would be the revised rate of interest as provided by the bank where the gratuity, leave encashment will be deposited.”

Basing his calculation on the revised provision as laid down in the above

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Notification, Mr. Bhattacharjee refers to page 8 of this supplementary application which appears to be a statement from the bank to the effect that the effective rate of interest will be 3.5% only, therefore, the rate of interest fixed at 8% by the respondent is arbitrary and, therefore, the amount shown as Rs.4331/- shown as income from 8% rate of interest is not only incorrect but is a exaggeration. Mr. Bhattacharjee further submits that based at 3.5% rate of interest, the total earnings from such source should be only around Rs.2073/-.

From the submissions heard from the learned counsels, it has become clear that the respondent authority while passing the impugned reasoned order in 2021 had referred to Notification No. 251-Emp. dated 03.12.2013 in which 8% rate of interest was suggested for calculating the gross monthly income of the family. Based on such rate of interest, the respondent authorities observed that the family's total income exceeds 90% of the gross monthly salary last earned by the deceased employee. However, Mr. Bhattacharjee, learned counsel relies on memo 419-Labr. dated 04.11.2022 and submits that as per this notification, the prevailing rate of interest should be considered while calculating such income of the family. He has relied on a letter issued by the Punjab National Bank wherein the rate of interest shown is 3.5% against deposits in the Savings Account. Disagreeing with the contention of Mr. Bhattacharjee, Mr. Halder submits that the respondent authorities had relied on Notification No. 251-Emp. dated 03.12.2013 which was in force at the time the matter was taken up for consideration.

It is the view of this Tribunal that the Notification No. 419-Labr. dated 04.11.2022 was not in force at the relevant point of time therefore, it would not be correct to say that the impugned order should have considered the prevailing rate of interest as shown at 3.5% interest.

Accordingly, this application devoid of any merit is disposed of.

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SAYEED AHMED BABA
Officiating Chairperson & Member (A)