

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. - OA 667 OF 2021

PROMOD KUMAR RAI - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and

Date of order

For the Applicant : Mr. Gautam Pathak Banerjee,
Learned Advocate

15
07.03.2025

For the State respondents : Mr. Manujendra Narayan Roy,
Mrs. Priya Sasmal
Learned Advocates

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.

The father of the applicant, Shiv Sankar Rai had died on 03.11.1999 while serving as an office Peon in the office of Executive Engineer, Calcutta Drainage Outfall Division, Irrigation and Waterways Directorate. Soon after the death of the father, and within the admissible time period, he and his mother furnished prayers before the respondent authorities to grant them an employment under compassionate ground. From copies of the documents available in this application, it is clear that the preliminary processing of the proposal for such an employment was taken care of. Three references (i) Memo. No. 3063 dated 01.10.2015 written by the Joint Secretary of the Department to the Executive Engineer; (ii) Memo. No. 6E-69/157 dated 02.02.2017 from the Superintending Engineer to the Executive Engineer and (iii) Memo. No. 3555 dated 14.03.2019 from the Director of Personnel to the Secretary, Irrigation and Waterways Department are relevant. This last correspondence is evident of the fact that the proposal for an employment under the compassionate ground in favour of the applicant was submitted in the prescribed proforma before the competent authority in the Department. Since despite submission of the proposal, the Department was hesitating in taking a decision, the applicant had approached this Tribunal for a direction to the respondent authorities in OA-446 of 2017 and MA-132 of 2019. By an

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order dated 06.09.2019, the respondent No. 1, the Secretary of the Department was directed to take the final decision with regard to the compassionate appointment of the applicant. In terms of such a direction, the Secretary of the Department finally took a decision and passed a speaking order on 05.05.2021. The reasoned order rejects the proposal for such an employment on the ground that the applicant has become overage, being 42 years old. Interestingly, the reasoned order also mentions that due to limited number of posts available for such compassionate appointment, the Department had taken a decision not to condone any relaxation for educational qualifications or age. It also added such relaxation is purely discretionary and depends upon overall facts and circumstances. However, the Department having noticed that at that point of time, the applicant was over 42 years old, could not be eligible for an appointment and thus, his prayer was regretted.

Appearing on behalf of the applicant, Mr. Banerjee, learned counsel argued that, had the respondent authorities, including the Executive Engineer taken care to promptly complete the process and submit the proposal for the final decision of the competent authority, such ground of being overage would not have been the case. For instance, Mr. Banerjee relies on the date 02.02.2017 in which, the Superintending Engineer had advised the Executive Engineer to resubmit the proposal with all the relevant documents. On the day such advise was given by the Superintendent, the applicant was only 38 years, 3 months and 28 days. Therefore, the respondent authorities themselves are to be blamed for their casual attitude in processing the case and they cannot now reject the same on the ground the applicant has become overage.

It is to be appreciated that the Scheme, titled as Compassionate Employment offering an employment to a legal heir of the deceased employee, was proclaimed and made available with the sole purpose that due to sudden death of the earning member, the family has fallen into serious financial difficulty. The Hon'ble Apex Court in several judgements has made it clear that compassionate employment is not a vested right of a family and cannot be

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regarded as an employment scheme. The financial condition of the family is the sole criteria to decide the eligibility for such an employment. With this intent and with a view to support such a family in need, this Scheme was formulated. However, it should not be seen as an employment to a legal heir solely on the ground that the government employee had died. In this case, the Tribunal has not been able to find any such financial stringency faced by the family soon after death of the deceased employee. Besides, the applicant, who had applied after lapse of more than two years from the date of death of the employee, had crossed the legal age of being offered such an employment. The Tribunal does not find any satisfactory ground that either the family is really under serious financial difficulty or the reasons given in the rejection are in violation of the Rules governing the Scheme. The Tribunal is satisfied that the respondent authority was correct in taking the decision that the applicant has crossed the age of 40 years and such decision was very much within the framework of the Scheme. Thus, finding no merit in this application, the application is disposed of without passing any orders.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

SCN.