

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 701 of 2022.

DEBAYAN SARKAR - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

07
22.02.2024

For the Applicant : None.

For the State Respondents : Mr. S. Ghosh,
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 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 terms of the direction of this Tribunal in OA 230 of 2022, the respondent – Additional Chief Secretary of the department reconsidered the matter and passed a reasoned order. The relevant part of the impugned order is as under :-

“.....Therefore, after considering all other aspects and the settled legal position that and going by the schemes formulated from time to time, it appears that the applicant as well as the three-man enquiry report could not establish and/or substantiate an immediate requirement of financial assistance which is the primary and foremost criteria for granting an appointment on compassionate ground and as such, the prayer of the applicant could not be considered for granting appointment on compassionate ground...”.

From the submissions of the learned counsels and the records, it appears that the father of the applicant, who was a Fire Officer at Coochbehar Fire Station died on 31.05.2006. Later on 15.9.2009, the applicant's mother submitted a representation before the respondent authorities praying for employment under compassionate ground and the respondent authorities enquired in this application and submitted its report by recommending such an employment. The report was submitted

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on 09.12.2011 as reflected in the original application. By an order dated 06.11.2015, such application was rejected citing clause (vi)(c)(c) and clause 14(a) of Notification 251-Emp dated 03.12.2013. This impugned order was challenged in this Tribunal in OA 230 of 2022. The Tribunal found the impugned order to be very cryptic in rejection of the application without explaining the detailed reason why such application was rejected. The respondent authorities were therefore directed to reconsider the matter and pass a speaking and reasoned order. In terms of such a direction, the respondent now has passed a reasoned order dated 29.9.2022 by giving justification to the decision in rejecting the application for compassionate employment.

After hearing the submission of the learned counsels and after examination of the documents in this application, the Tribunal observes that not only the applicant was a minor and thus not eligible for such employment at the time of death of the deceased employee, but, it is also an admitted fact that for the next four years from the date of death, no one in the family applied for such compassionate employment. It appears that at the time of death of the employee, besides this applicant, who was a minor, there were other members in the family, who were eligible and could have applied for such employment, but they did not. The Tribunal is also aware that compassionate employment to the legal heirs of the deceased employee is not a legal right by which upon death of the employee, another employment in the form of compassion can be carried on. The very meaning of the word "compassion" has to be understood that it is only to provide an instant relief to the family in the event of the members death. It has to be seen that in the family, the deceased employee was the only and primary earning member, whose departure has left a financial void and the future is financially bleak.

From this application and even from the three Men-Enquiry-Committee's report, the Tribunal does not find the family had passed through such difficult days. Since the decision of the respondent authorities are limited within the four corners of the law and when it was found that such an application was made by the applicant after lapse of the stipulated time frame and also the applicant himself was a minor at

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the time of death of the deceased employee, therefore, the respondents were correct in assessing the merit of this application and rejecting it on the above ground.

In view of above consideration, the Tribunal not finding any merit disposes of this application without passing any order.

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

Skq.

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