

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 724 of 2022

Arya Sengupta -- VERSUS – The State of West Bengal & Others

Serial No. and Date of order	For the Applicant	: Mr. G. Halder, Advocate.
<u>10</u> 19.11.2024	For the State Respondents	: Mrs. S. Agarwal, 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.

The prayer in this application is for a direction for setting aside the impugned order passed by the respondent no. 3 on 17.12.2021 rejecting the application for appointment on compassionate ground. The reasoned order rejected the application on the ground that the applicant was a minor (only about 2 years 9 months and 19 days old) at the time of expiry of the ex-employee.

Mr. M. N. Roy, learned counsel for the applicant had submitted that the respondent failed to follow the provisions of 26-Emp. dated 01.03.2016 in which appearing at Clause 10(a)(a) the revised provision allows the dependent member to qualify for such appointment at the time of consideration. The relevant para of Clause 10(a)(a) which is as follows :

“Dependent member must invariably attain the minimum age of appointment at the time of consideration.”

Submission is at the time of consideration of his application by the respondent the applicant had attained the minimum age of appointment, therefore, the impugned order be quashed and set aside with a direction to offer an employment under compassionate ground.

Responding on behalf of the respondent authority, Mrs. S. Agarwal, learned counsel, however, insists that the reasoned order was correct in rejecting the application on the ground that the applicant was a minor at the time of death of his father, the deceased employee.

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From the submissions of the learned counsels and the statements of the applicant in his application, it is clear that the fact of the applicant being a minor at the time of death of the employee is not in dispute. The employee had died on 15.04.2000 when the applicant was a minor. He attained the age of employment in the year 2015 and submitted his application for compassionate employment on 28.12.2015. Mr. M. N. Roy had argued that the respondent authority ought to have applied Clause 10(a)(a) of Notification No. 26-Emp which came into force from 01.03.2016. As per this specific amended clause an extended time limit up to 5 years is given for submission of an application for compassionate employment. However, such relaxation can be applied only if two conditions are fulfilled :

- (i) Death of the employee in action; and
- (i) None in the family was eligible at the time of death of the employee.

In this case, it is evident that these two conditions were not met – the death of the employee was not “in action” and the father of the applicant was eligible for such an employment. From the application, it also becomes clear that it was a planned application for the applicant to attain the age of 18 years and then apply. In para – IV of the application, the applicant himself had mentioned that he was under aged at the time of death of his mother. Such an application was preferred only after he attained the age of 18. It is relevant and pertinent to mention that the scheme for compassionate appointment is a need based concept and not a right to be claimed by members of the deceased family. Such an employment is to be provided as a minimum succour if the family is passing through serious financial and economic difficulties. In this case, the strong impression gained by this Tribunal is that the applicant considered such a compassionate employment as his legal right. Mere death of a government employee does not give any legitimacy for claiming such an employment. Further, the scheme is

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intended for a family member who fulfils all the eligibility criteria. In this case, however, the applicant being a minor at the time of death of his mother could not fulfil one of the main eligibility criterias.

Having observed above and not being satisfied with the contention of the applicant, this application is disposed of without passing any orders.

SAYEED AHMED BABA
Officiating Chairperson & Member (A)

S.M.