

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 773 of 2022

Akash Ranjan Ray -- VERSUS – The State of West Bengal & Ors.

Serial No. and
Date of order

For the Applicant : None.

For the State Respondent : Mr. G.P. Banerjee,
Ld. Advocate.

08
04.04.2024

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, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the order dated 24.08.2022 by which his prayer for compassionate employment was regretted.

A Supplementary application has been filed having a copy of the plain paper application submitted by the applicant before the respondent authorities on 26.03.2014. It appears from the office seal given on the body of the application such application was received. However, this is subject to verification with the original records by the office of the respondent. The deceased employee had died on 29.03.2009. Mr. D. Kar, learned counsel for the applicant referring to this application submitted on 26.03.2014 argues that at the time of such submission, the applicant had already attained the age of employment; he was 18+ years old. Further, by evidence of such application, it is clear that this application was submitted within five years from the date of death of the employee as per the provision in 10(a)(a) of Notification No. 26-Emp. Responding to the other reason for rejection on the basis of financial need, Mr. Kar relies on the report of the Enquiry Committee which had recommended such employment considering the financial condition of the family of the deceased employee.

Mr. Banerjee, learned counsel appearing on behalf of the State respondent and relying on the reasons given in the rejection order submits that such an application is not admissible primarily on the ground that the applicant was a minor at the time of death of the deceased employee. Mr. Banerjee also emphasises that this fact has not been disputed by the applicant. Attaining the age of employment later and submitting an application then do not entitle him

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to such compassionate employment. Mr. Banerjee also do not agree with the economic condition which would have necessitated such compassionate employment. Since the applicant submitted his application after a gap of five years from the date of death, it clearly leads to the conclusion that for the next five years, the family was not in dire economic condition.

It is not in dispute that the applicant was a mere 4 years 11 months and 26 days old when his father a Police Constable died in an accident on 29.03.2009. Aware that a minor is not eligible for such compassionate employment, the applicant put forward his proper application in proforma only when he had attained the age of employment – 15.02.2017. The mother of the applicant claims to have applied within the time-limit for her minor son, but such application cannot be of any help since the existing rules do not accept such application. After considering the above fact, the Tribunal finds the decision of the respondent authority regretting such application to be on merit and within the framework of the law. The scheme of compassionate employment by its very definition means extending a helping hand to the grieving family at the time of death of the employee by way of offering an employment to a family member, if eligible. In this case, though very unfortunate that the father of the applicant had died in an accident but the fact remains that both the children were minors. The widow and mother of the applicant may have been eligible for such employment, but she chose not to apply and rather wait till the son attains the age of employment. Unfortunately, the scheme can allow only an eligible member of the family to apply for such employment till 5 years from the date of death, if two important conditions are made. For other cases, time-limit to apply is upto 2 years from the date of death of the employee. Therefore, finding the decision of the respondent authority, correct and within the extant Rules, this application is **disposed of** without passing any orders.

SS

SAYEED AHMED BABA
Officiating Chairperson & Member (A)