

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- 777 of 2022

Amit Jha. VERSUS – The State of West Bengal & Ors..

Serial No. and
Date of order

For the Applicant

: Mr. S. Ghosh,

Mrs. S. Das,

Advocates

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04.04.2024

For the State

Respondents

: Mr. G.P. Banerjee,

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 learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for setting aside the reasoned order passed by the respondent on 22.08.2022. The reasoned order relying on several Notifications of the Labour Department rejected the application for compassionate employment primarily on the ground that the applicant was a minor at the time of death of his father. Moreover, the respondent observed that the application for compassionate employment was submitted after a lapse of more than six months from the date of death. It is also noted that at the time of death of the father, the applicant's elder brother was more than eighteen years old and thus eligible for compassionate appointment but he did not apply for such employment.

Submission of Mr. Ghosh, learned counsel is that as per 10 A of 26-Emp "if a family of the deceased employee is in need of financial assistance and the same is absolutely necessary to support the family, application for employment is to be submitted within two years from the date of death."

Mr. Ghosh submits that a plain paper application was submitted before the respondent, Executive Engineer, Dakshin Dinajpur Highway Division on 07.02.2011 after the father's death on 20.07.2010. It is evident from the office order issued by the Superintending Engineer on 08.12.2011 by which a three Men Committee was constituted to enquire into the applicant's application for compassionate employment that the application was submitted on time. Thereafter, the P.W. (Roads) Directorate on 05.06.2013 issued a correspondence in which it is stated that the applicant's sl. No. is 314 in the "single list of candidates for appointment to the post of Group-D."

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In terms of a direction of this Tribunal, the respondent authority has passed a detailed reasoned order and giving several reasons the application for compassionate employment was rejected. From the submissions of the learned counsels and this record, it is clear that the applicant was a minor at the time of death of deceased employee. After withdrawing an earlier application from this Tribunal, the applicant had furnished a representation before the respondent authorities to relax the shortfall of his age required for an appointment. Though at the time, his elder brother was eligible for such an employment but he had not applied. The reason given by the applicant is that the elder brother was not medically fit to be eligible for such appointment. However, no documentary proof has been submitted from their side to substantiate this ground. The reasoned order has cited few rules relating to such an appointment but this application has not challenged any of these reasons. The only submission made by the applicant in this application is that such reasoned order is "illegal and devoid of its merit". The rules relating to compassionate employment is very clear that an applicant being a legal heir of the deceased

employee should have attained the age of employment when such an application is submitted. Being a minor at the time of death of the deceased employee and waiting for some time to become an adult and then apply cannot be accepted as a proper application. The compassionate employment is only a helping hand extended by the State Government to help them recover from the loss of their earning member. Such right is neither inherent in the family nor can it be kept open till such time a minor becomes eligible and applies for such appointment.

Having come to the finding that this application does not have any merit and the reasoned order passed by the respondent authority is within the framework of the law, this application is disposed of without passing any orders.

SAYEED AHMED BABA
OFFICIATING CHAIRPERSON & MEMBER(A)

A.K.P.