

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 784 OF 2023

CHANCHAL MAJUMDER - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

For the Applicant : Mrs.Sonali Mitra
Advocate

04
29.01.2025

For the State Respondents : Mr.Goutam Pathak 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 the 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 impugned correspondences dated 31.10.2023. By this correspondence, the Deputy Inspector General of Police (P&W) informs the Superintendent of Police, Barasat Police District that the application for compassionate appointment of the applicant has been regretted on the ground that the applicant was a minor at the time his father was declared dead by the Civil Court on 14.05.2005. The declared dead employee was also a dismissed employee.

Pradip Majumder, the father of the applicant was a Constable of Police posted at (S.A.P.) 5th Battalion, Durgapur. On 13.05.1998 he was detailed for election duty at Katwa, Purba Medinipur. From the very next date his whereabouts were not known. The mother of the applicant filed a Declaratory Suit No. T.S. No. 3086 of 2008 before the Learned Civil Judge, 5th Court at Alipore. The said suit was decreed on 20.09.2011 in favour of the mother and Pradip Majumder, missing

Constable was declared presumed to be death in the eyes of law under Section 108 of the Evidence Act on 20.09.2011. The Department proceeding Nos. 10 of 2002 / 68 of 2004 which had passed a dismissal order on the missing Constable was set aside by a direction of this Tribunal in OA-1003 of 2012. Consequently, service benefits of the deceased employee, like family pension were sanctioned. The applicant, being younger son of the deceased Pradip Majumder, submitted a prayer for compassionate employment before the Superintendent of Police, North 24 Paraganas on 04.01.2022 mentioning that such an employment is necessary to survive after his father was declared dead by the competent Civil Court on and from 14.05.1998. The Department of Home and Hill Affairs after having examined the prayer came to the conclusion that the applicant, Chanchal Majumder was a minor of 11 years and 5 months old at the time of death of the deceased employee on 14.05.1998. Therefore, such belated request is not covered under the extant rules of the scheme.

The applicant side had argued that such ground of rejection of being a minor at the time of death of the employee on 14.05.1998 is not valid for the reason that the dismissal order of the missing Constable was set aside by the Tribunal on 04.09.2020 which also directed the respondents to release all consequential service benefits to the family. The contention is that the respondent authority should have taken 04.09.2020, the date, the Tribunal passed the order from which two years should be measured for submission of an application for compassionate employment. The mother of the applicant had preferred such a prayer on behalf of the applicant on 17.08.2021 before the Superintendent of Police followed by the applicant himself furnishing an application on 04.01.2022. Therefore, the question of delay in filing the

prayer for compassionate employment does not arise.

For an application made before the respondent authorities praying for compassionate employment, the date of submission of the proforma application is very important. As per the scheme governing compassionate employment notified in 251-EMP dated 03.12.2013 and 26- EMP dated 01.03.2016, a maximum time of two years is allowed for the eligible family member to apply before the respondent authorities in the prescribed proforma. For some special cases, five years is available for submission of the application. In this case, the family was required to apply within two years from the date of death of the employee. The date of death of the missing employee declared by the competent Court was on and from 14.05.1998. By this order, it has to be accepted that the death of the employee occurred on 14.05.1998 and for an application for employment, a two years time was available from this date. However, not only the application was filed belatedly, but also the date - 14.05.1998 declaring the date of death of the employee, the applicant was a minor of only 11 years and 5 months. Again in terms of the rules governing the scheme, a minor is not entitled to apply for such an employment. The contention of the applicant side that such time should be taken from the date when the Tribunal passed an order on 04.09.2020 setting aside the dismissal order of the employee is not a valid argument. The guideline states very clearly that the date for such an application has to start from the date of death of the employee.

The Tribunal having heard the submissions of the learned counsels and after examination of the records in this application has come to the conclusion that the respondent authorities had taken a correct decision in rejecting the prayer of the application for compassionate employment on the ground that he was a minor at the

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time of death of his father, the deceased employee on 14.05.1998.

The application, devoid of any merit, is disposed of without passing any orders.

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

BLR