

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 795 of 2022.

MITHUN DALUI - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and
Date of order

08
14.11.2024

For the Applicant : Mr. G. Halder,
Advocate.
For the State Respondents : Mr. S. Bhattacharjee,
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 setting aside the impugned order passed by the respondent on 25.04.2022. The respondent had passed a reasoned order rejecting the application for compassionate employment on the ground that the application was submitted more than three years after the death of the employee.

The applicant's mother, late Gene Dalui was a Road Majdoor under Bardhaman (East) Sub Division, P.W.D. and died while in service on 11.10.2013. Soon after the death of his mother, the applicant furnished a plain paper application before the Executive Engineer-I, P.W.D., Bardhaman (East) praying for compassionate employment. This plain paper application was followed by submission of proforma application on 23.03.2017. Mr. G. Halder also expresses that usually such an applicant who is semi literate and from a mufasal area is not given the blank proforma application unless they are satisfied. The applicant does not have his own means and resources to gather such a blank proforma application and submit before the respondent authority. Unlike a plain paper application, this proforma application which is in three parts cannot be submitted without the help and guidance of the officials in the office of the respondent authority. Such proforma application was eventually handed over to him only after active persuasion for three years after the death of his mother. This is the sole reason why the date of submission of proforma application is almost three years after the death of his mother. The proforma

ORDER SHEET

Form No.

MITHUN DALUI.

-Vs-

Case No. OA 795 of 2022.

THE STATE OF WEST BENGAL & ORS.

application along with other documents was forwarded by the Executive Engineer-I to the Superintending Engineer, Western Circle on 20.03.2018. After submission of the proposal, the Joint Secretary of the Department called the applicant to appear in person for the purpose of document verification on 29.05.2018. The applicant duly appeared and all his documents were verified. Unfortunately, Mr. G. Halder submits that despite submission of all the relevant documents and its verification, the applicant, though being eligible, was not considered for such an employment. The impugned reference dated 25.04.2022 was communicated to the Executive Engineer rejecting such an application on the ground that the proforma application was submitted on 23.03.2017, more than three years after the death of the deceased employee.

The fact that the applicant had submitted a plain paper application on 22.10.2013 within few days from the date of death of his mother is not disagreed by the respondent authority. By submitting in person such a plain paper application, the applicant had clearly demonstrated his desire before the respondent authorities for employment under compassionate ground. The impugned reference dated 25.4.2022 rejecting his application on ground of delayed submission appears to have been done mainly on technicality without considering the fact that the applicant had submitted a plain paper application. The Tribunal also agrees with the submission of Mr. G. Halder that the blank proforma application was to be given and filled up by the applicant with active assistance from the officials. The Tribunal is aware that in rural areas, a semi literate son of a road majdoor cannot be expected to arrange such a proforma application of his own without the help of the officials.

It is also important to record that the objective of the Government is to help and assist a person in completing the formalities related to an application for employment on compassionate ground. Specific clause 10 (bb) added to the Notification 251-Emp by Notification No. 26-Emp dated 01st March, 2016 makes the officials responsible in advising and assisting an applicant for getting an employment on compassionate ground. The exact wordings of this clause is as under :-

ORDER SHEET

Form No.

MITHUN DALUI.

-Vs-

Case No. OA 795 of 2022.

THE STATE OF WEST BENGAL & ORS.

“.....The concerned authorities the department/office should meet the members of the family of the deceased Government servant immediately after his death to advise and assist them in getting appointment on compassionate ground. The applicant should be called in person at the very first stage and should be advised in person about the requirements and formalities to be completed by him. Record of such meeting should be kept with the office of the Controlling authority and Appointing authority...”.

It is a prevalent norm that after receiving a plain paper application and being satisfied with the genuineness of the applicant and the eligible criteria having been fulfilled, the officials hand over a copy of such proforma application. It is also observed by this Tribunal with dismay that the plain paper application was not considered as an application for compassionate employment. Further, despite submission of the proforma application on 23.3.2017, the competent authority considered and took the final decision after five years – 25.4.2022. The applicant cannot be held responsible for submission of delayed proforma application when the authorities themselves took so much time to process his application. It is a well settled law that the respondent authorities cannot ignore and reject such plain paper application for compassionate employment, in particular when such plain paper application was submitted by the applicant within the permissible time before the respondent authorities.

From the above mentioned paragraph of the Scheme, it becomes very clear that the Government, aware of the difficulties an applicant would face had given the responsibility of assisting him to the officials. In this case, the Tribunal does not find any records that this applicant was properly guided and assisted by the officials at the time when he submitted his plain paper application. Had the officials complied with this provisions of Notification and assisted the applicant properly, perhaps, he would have received the blank proforma application and submitted the same within the permissible time limit. The Tribunal finds from the records and submissions that the applicant was neither assisted nor given a proforma application to be filled up by

ORDER SHEET

Form No.

MITHUN DALUI.

-Vs-

Case No. OA 795 of 2022.

THE STATE OF WEST BENGAL & ORS.

the officials at the time when he submitted his plain paper application.

Having observed the above deficiency on part of the respondent authorities and finding the decision of the authorities in his impugned order untenable and unfair to the applicant, the Tribunal quashes and sets aside the decision of the Joint Secretary in his memo 104 dated 25.4.2022.

The respondent no. 2(i) – Secretary, Public Works Department is directed to re-examine the matter taking into consideration the fact that the applicant had submitted his plain paper application on 22.10.2013 and in the light of above observation, take a final decision within four months from the communication of this order. A copy of the decision be communicated to the applicant within two weeks thereof.

With the above observation, the application is disposed of.

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

Skg.