

**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 796 of 2021.

SUPRODIP DAS - VERSUS- THE STATE OF WEST BENGAL & ORS.

Serial No. and  
Date of order

8  
27.4.2023

For the Applicant	: Mr. M. Bhattacharjee, Advocate.
For the State respondents	: Mr. G.P. Banerjee, Mr. A.K. Das Sinha, Advocates.

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 23<sup>rd</sup> 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 for the contesting parties, the case is taken up for consideration sitting singly.

In support of the claim of the applicant for compassionate employment, Mr. M. Bhattacharjee, learned counsel for the applicant had relied on the following facts during the last day of hearing:-

- (i) that the applicant's father – deceased employee had received benefits under Career Advancement Scheme (CAS) after completion of sixteen years of service.
- (ii) As a proof of being a regular employee, the pension paper of deceased employee had the words "Government employee".
- (iii) Besides, as a regular employee, the father of the applicant had performed two election duties also, and
- (iv) In the family pension documents, the words "Pay Band" has been mentioned to substantiate the fact that the deceased employee was

under regular establishment.

Relying on the above grounds, Mr. Bhattacharjee had submitted that the applicant, was thus entitled for compassionate employment.

In response to the above submissions, Mr. A.K. Das Sinha, learned counsel for the State respondents had submitted that :-

- (i) Entitlement and receiving CAS benefit has no connection with compassionate employment. Compassionate employment is a separate scheme and is covered under a set of separate Government policies issued through Notifications. In none of such Notifications, it is stipulated that beneficiaries of CAS are entitled for compassionate employment.
- (ii) Again, receiving family pension does not entitle a family member to receive compassionate employment because as stated above, compassionate employment is a separate scheme covered by a separate set of rules.
- (iii) That performing election duty, does not confer any right to a legal heir for compassionate employment. During the conduct of election, even part time workers and casual workers are also deployed for election duty.

Mr. G.P. Banerjee, learned counsel for the State respondents refers to (xv) of page 8 of the application in which the petitioner has himself admitted that despite his father's 21 years of service, the authority was reluctant to regularize his service into regular establishment.

Finally, Mr. Banerjee wonders that during 21 years of service, the deceased employee himself never ventilated his grievances of continuing as a casual worker and not being absorbed in permanent capacity. Therefore, what is the locus standi of this applicant to raise the issue of his deceased father's regularisation in the service.

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In response to above, Mr. Bhattacharjee refers to page 19 of the application, which appears to be an office order issued by the Executive Engineer, Murshidabad Highway Division-I on 12.10.1998 in which nine work-charged employees were given new assignment and posted as roller cleaners against "existing vacancies". Mr. Bhattacharjee then refers to page 20 which appears to be another order of the Executive Engineer, Murshidabad Highway Division-I issued vide memo no. 917 on 29.5.2001 in which a total of twenty work-charged group -D staff had been declared "Confirmed". The relevant portion of the order is as under :-

*"...In terms of Finance Department's Memo No. 6060-F Dated 25.6.79 the following work-charged Group 'D' staff working under this Division are hereby declared confirmed with effect from the date as mentioned below against their name.*

*18. Sri Rajesh Das, Date of entry into the service shown on 12-12-95 and 11-12-98 Road- Majdoor has been shown as his date of confirmation..."*

Mr. Bhattacharjee relies on para 5,8 and 10 of a judgement in Civil Appeal No. 4575/2021 arising out of SLP (c) No. 20650/2019 (The State of Uttar Pradesh & Ors -versus- Uttam Singh).

After hearing the submissions of learned counsels of both sides and considering the facts and circumstances of the case, the following observations are recorded :-

- (i) Though the applicant's deceased father had received CAS benefit, his family receiving the family pension, his pension papers mentions the word "Government Employee" and having performed election duties, it is the opinion of the Tribunal that these do not confer any right on the applicant for compassionate employment.
- (ii) The applicant's deceased father was appointed on 24.8.1995 to a Group -D post under work charged establishment on compassionate ground. As stated in his application, despite

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twenty-one years, the deceased employee was not regularised into permanent service. The order which Mr. Bhattacharjee, learned counsel for the applicant refers to order no. 917 dated 29.5.2001 is an order of confirmation of the applicant as a road majdoor.

The notification 251-Emp at 3(f) defines “Government employee” for the purpose of this scheme means a Government employee **appointed** on regular basis and not the one working on daily wage or casual or apprentice or ad-hoc or contract of re-employment basis...”.

From this, one can interpret that the deceased employee was on the work-charged establishment as a road majdoor and was confirmed later. His appointment was not in regular establishment. His appointment was to a Group –D post – under work charged establishment.

(iii) It is also noted that the memo no. 1488 dated 24.8.1995 is actually a correspondence from the Superintending Engineer authorising the Executive Engineer to appoint the applicant’s deceased father for Group –D post under work-charged establishment. However, this is not an appointment letter issued to the applicant by the establishment.

(iv) The paras from the judgement in Civil Appeal No. 4575/2021 arising out of SLP(c) No. 20650/2019 (The State of Uttar Pradesh & Ors- versus- Uttam Singh) relied by the learned counsel for the applicant is not relevant in this matter. It is clear that the relevant paras of the judgement primarily relate to the condition of work-charged-employees. Here in this application, the main relief prayed for is compassionate appointment.

In view of the above observations, the Tribunal is of the opinion that this application for compassionate employment has no merit, although the deceased

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employee had worked under work-charged establishment and later confirmed, but this does not alter the fact that his appointment was not on regular basis.

Therefore, the reasoned order passed by the respondent is upheld and no order is passed. This application is disposed of.

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

Sk.

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