

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble SAYEED AHMED BABA, Member (A)

Case No. – OA-835 of 2018

Tuku Singha & Anr. **VERSUS** – The State of West Bengal & Ors.

Serial No. and Date of order	For the Applicant	:	Mr. Mrinmoy Bhattacharyya, Learned Advocate.
<u>14</u> 12.09.2022	For the State Respondents	:	Mrs. S. Agarwal, Learned Advocate.

In this application, the applicant prays for suitable direction to the respondents for providing compassionate employment. The applicant's father, an employee under the P.W.D. Deptt. died in harness on 16.07.2012. Thereafter, an application was submitted to the concerned authority for providing employment under die in harness category. The respondents after considering the application along with recommendation of the Three Men Enquiry Committee rejected the same on the ground that the application for employment was not submitted within six months from the date of death of the employee. Being aggrieved by the decision, the applicant moved the Tribunal in OA-1018 of 2016. The Tribunal was pleased to direct the respondent to revisit its earlier decision and pass a fresh reasoned order. The respondent in compliance with the Tribunal's direction on 11.10.2017, considered the application afresh and rejected the same on the new ground that the monthly income of the family does not fall below 90 % of the gross monthly salary of the deceased employee. Again aggrieved by the rejection order of the respondent, the applicant approached the Tribunal in this application being No. OA-835 of 2018. It is submitted by the learned counsel for the applicant that the respondents erred in rejecting the application by including the family pension as part of the family income. According to him, there are judgements of the Hon'ble High Court and Apex Court which makes it clear that after the death of

the employee, pension and other retiral benefits given to the family cannot be made as a part of the family's regular income. In this case, the respondent has included Rs. 9979/- as family pension with interest and rejected the application on the ground that the family was not in need of minimum financial assistance.

Mr. Bhattacharyya, learned advocate for the applicant submits a copy of Apex Court judgement given in (2005) 10 SCC 289 : Govind Prakash Verma vrs. Life Insurance Corporation of India & Ors. in which the Apex Court has made it clear that family pension paid to the widow of the deceased and other such amounts cannot be considered as family income. The relevant portion of the order of the Apex Court is as under:

“6. In our view, it was wholly irrelevant for the departmental authorities and the learned Single Judge to take into consideration the amount which was being paid as family pension to the widow of the deceased (which amount, according to the appellant, has now been reduced to half) and other amounts paid on account of terminal benefits under the Rules.”

In the light of the judgement of the Apex Court cited above, I am of the view that the impugned order dated 11th October, 2017 rejecting the application for compassionate ground in which the family pension has been included as part of the family income is not maintainable and thus set aside. The respondent no.(ii) is directed to consider the application for the compassionate employment afresh in the light of the judgement of the Apex Court as quoted above.

Accordingly, the original application is disposed of.

SAYEED AHMED BABA
MEMBER (A)