

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 835 OF 2023

SUJOY RUIDAS & ANR. - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No.	For the Applicants	:	None
and Date of order	For the State Respondents	:	Mr. Subit Kumar Mandal, Learned Advocate

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07.08.2025

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 a direction to the respondent authorities to give an employment under compassionate ground to the applicant No.1 after quashing and setting aside the memo No.314 dated 07.09.2022, issued by the Joint Secretary, Public Works Department and giving him an opportunity of hearing.

The Joint Secretary, Public Works Department rejected the prayer of the applicants on the ground that the father of the applicant No.1 was a work charged employee and *“there is no scheme, which is framed concerning the compassionate appointment of the dependent of the deceased work charged employee”*.

The father of the applicant No.1, Subodh Chandra Ruidas, a Work Guard attached to the Asansol Highway Sub-Division under the Asansol Highway Division, Western Highway Circle-I, Public Works (Roads) Directorate, died in harness on 27.05.2018. As per the learned advocate for the applicants, the applicant No.2, the widow submitted a plain paper application for compassionate employment on 09.10.2018 which had been duly received by the Assistant Engineer, Asansol Highway Sub-Division, Public Works (Roads) Directorate on 10.10.2018 and the applicant No.1, son submitted a plain paper application on 02.04.2019. The proforma application was submitted on 19.06.2019. It is evident from a memo No.461 dated 02.05.2019 that an Enquiry Committee was formed. The Committee was instructed to submit its report within 22.05.2019. As per

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memo dated 25.02.2022, all necessary documents had been submitted by the applicants. The Joint Secretary, Public Works Department, by his memo No.314 dated 07.09.2022, rejected the prayer for compassionate appointment only on the ground that the father of the applicant No.1 was a work charged employee and *“there is no scheme, which is framed concerning the compassionate appointment of the dependent of the deceased work charged employee”*. The relevant paragraph is as follows:

“2. As per clause 3(f) of Notification No.251-Emp. dated 03.12.2013 “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 or re-employment basis.”

The learned counsel for the applicant contended that the father of the applicant, being a government employee, was granted a regular pay scale, leave and all other benefits including family pension to the widow which are allowed to other employees of regular establishment. Therefore, it is construed that he was a government employee and the respondent authority, without taking into account the factual situation, denied compassionate appointment to his dependants.

The learned counsel for the State respondents, citing a judgement dated 10.06.2021 in W.P.S.T. 99 of 2020 : *“Sri Sujit Dalui versus Principal Secretary, Public Works Department”*, had argued that from a letter dated 06.02.2020 of the Superintending Engineer, Western Highway Circle-I, it is evident that the deceased employee was a work-charged staff and not an employee appointed on regular basis. In the instant case, in terms of Sub-Clause (f) of Clause 3 of the Notification No.251-Emp, dated 03.12.2013, the father of the applicant, being a work charged employee, cannot be termed as a government employee. The Scheme for Compassionate Appointment is not available to a dependent family member of a Work-Charged Employee, who dies while in service.

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By way of submitting a copy of judgement dated 09.07.2014, passed by the Hon'ble High Court at Calcutta in W.P.S.T. 170 of 2014 : "*Manoj Kumar Mishra versus The State of West Bengal & Ors.*", the learned counsel for the applicant had urged that the dependant of a work charged employee can also get an employment under compassionate ground. The relevant portion of the judgement is as follows:

"We have seen the orders passed denying the Petitioner the employment. These orders are cryptic, and passed without taking into account the factual situation in the present case and the circumstances of the petitioner's family. According to the learned counsel, the Petitioner's family has been paid pension and other retiral benefits of his father.

The impugned order is set aside."

Having heard the learned counsels for the parties and after examination of the records, the Tribunal finds that the plain paper applications and proforma application were valid. The Rules governing the scheme under Notification No.251-Emp, dated 03.12.2013 and Notification 26-Emp dated 01.02.2016 of the Labour Department required the applicant to furnish the prayer for compassionate employment within two years from the date of death of the employee. The criterias of compassionate employment have been fulfilled by the applicants. The employee had been working from 1994 till 27.05.2018. During his service period of more than 23 years, he got increments and CAS benefits. His service might be deemed to have been absorbed in the regular establishment.

In view of the order passed by the Hon'ble Court in *Manoj Kumar Mishra (supra)*, the memo No.314 dated 07.09.2022, issued by the Joint Secretary, Public Works Department, is quashed and set aside. The application is disposed of with a direction to the respondent No.2, the Joint Secretary, Public Works Department, Government of West Bengal to reconsider the prayer of the applicants, in terms of

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the aforesaid judgement of the Hon'ble Court, after verifying the records and giving an opportunity of hearing to the applicant No.1, by passing a reasoned order within a period of three months from the date of communication of this order.

SCN.

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

WEST BENGAL ADMINISTRATIVE TRIBUNAL