

J U D G E M E N T

The instant application has been filed praying for the following reliefs :

- i) An order setting aside and quashing the impugned order dated 10-06-2016 of the Respondent No. 2 refusing the application for compassionate appointment of the applicant on the ground of delay.**
- ii) An order directing the respondent authorities to appoint the applicant on compassionate grounds in a suitable post.**
- iii) Such other order or orders as to this Hon'ble Tribunal may deem fit and proper.**

As per the applicant, his mother while serving as Sweeper under Khajrabari PHC under Keshiary BPHC of Paschim Medinipore died-in-harness on 12-08-2007. Immediately thereafter, the applicant submitted an application for compassionate appointment on 12-10-2007.

Subsequently the case of the applicant was forwarded by the BMOH, Keshiary BPHC, Paschim Medinipore to the CMOH vide Memo dated 25-06-2010 along with all relevant documents (Annexure-A/7).

Thereafter the applicant was asked to be present before the Enquiry Committee. Again the respondent no. 5 forwarded the proforma application of the applicant along with all relevant documents to the respondent no. 4 i.e. Joint Director of Health Services (Personnel) vide Memo dated 11-02-2014.

However his case was initially rejected on the ground of delaying in submitting the prayer for compassionate appointment vide Memo dated 16-09-2014(Annexure-A/14).

Being aggrieved with, the applicant preferred an original application being OA No. 863 of 2015 before this Tribunal which was disposed of vide order dated 10-09-2015 by way of directing the respondents to reconsider the case after holding that the plain paper application submitted by the applicant should be treated as a filing of application for compassionate appointment.

In pursuance to the said order dated 10-09-2015, the respondents however again rejected the case of the applicant on the self same ground vide order dated 10-06-2016 (Annexure-A/17) Being aggrieved with, he has filed the instant application.

As per the applicant, after the death of his mother, he immediately applied for compassionate appointment within 2(two) months i.e. on 12-10-2007 before the competent authority which was also considered by this Tribunal in earlier occasion as the case of the applicant was earlier rejected on the self same ground that he had submitted the application belatedly. This Tribunal vide his order dated 10-09-2015 had clearly held that as per settle law an application for compassionate appointment even in a plain paper should be accepted for considering such prayer even then the respondents had again rejected his claim on the self same ground. Thus the applicant has prayed for quashing of the impugned order.

2. The respondents have filed their reply wherein they have stated as per 26-Emp dated 01-03-2016 (by amending the Notification dated 251-Emp dated 03-12-2013), wherein time period was fixed for filing the application in prescribed proforma up to 2(two) years after the death of the ex-employee. However the applicant filed the proforma application after three years.

Therefore the respondents have rightly rejected the case of the applicant. Thus they have prayed for dismissal of the original application.

3. We have heard the parties and perused the records. It is noted that there is no dispute that the mother of the applicant died on 12-08-2007 and subsequently the applicant preferred an appeal for compassionate appointment on 12-10-2007 in plain paper. Subsequently he had filed the proforma application whereas in the earlier occasion the respondent had rejected the claim of the applicant on the ground that the application for compassionate appointment in prescribed proforma should be filed within 2(two) years and this very aspect was considered by this Tribunal in their order dated 10-09-2015 passed in OA 863 of 2015 observing inter alia :-

“After we have heard Ms. Lopamudra Moitra for the Applicant and on considering the materials made available before us, we find that at the first instance the death of the bread-winner of the family took place on 12-08-2007 whereas the application for compassionate appointment was made on 12-10-2007. This was well within the time frame.

Furthermore, it is now well settled that an application for compassionate appointment even in a plain paper should be accepted for considering such prayer. As such the reckoning date in this case should be taken as 12-10-2007.

More so, it would be evident from Annexure “A-7” from Memo No. 295 dated 25-06-2010 of B.M.O.H., Keshiary B.P.H.C., Paschim Medinipur, forwarded to the C.M.O.H. with all relevant documents in respect of the prayer for compassionate appointment on behalf of the applicant. As such it is absolutely clear that the applicant had applied much

earlier to 25-06-2010 which was sought to be taken as a cut-off date by the Director of Health Services”.

From the above, it is clear that the issue for rejecting the claim of the applicant in the present impugned order saying an identical. However the respondent had chosen not to prefer any appeal by challenging the said order but had rejected the claim of the applicant on the self same ground.

4. Therefore we have no alternative to quash the impugned order dated 10-06-2016, which has been passed in pursuance of the earlier date wherein this issue has already been dealt with and answered and accepted by the respondents.

5. In view of the above, we quashed and set aside the impugned order dated 10-06-2016 and directed the respondent authorities to reconsider the case of the applicant in the light of the observations made in this application as well as in the earlier OA and to take a decision and communicated the same to the applicant by way of reasoned and speaking order within a period of 8(eight) weeks from the date of receipt of this order.

6. Accordingly, the OA is disposed of with the above observations and direction with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA(SEN)
MEMBER(J)

