

J U D G E M E N T

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

- (A) Quashing the impugned order issued by the Additional Chief Secretary, Government of West Bengal. Public Health Engineering Department, communicated by the O.S.D.& Ex-Officio Special Secretary by memo no. PHE/2115/IC-11/2017 dated 29/08/2017 marked as annexure "N" to this application.**
- (B) Directing the Respondents to take immediate steps for granting compassionate appointment to the applicant in conformity with the different correspondence of the department within a stipulated period.**

As per the applicant, his father died in harness on 16/03/2012, the mother of the applicant had prayed for disbursement of death-cum-retirement benefits of her deceased husband filing by one application for compassionate appointment in favour of the applicant. Pursuant to the said application, the Executive Engineer, Malda, Mechanical Division conducted preliminary enquiry on 26/07/2012 and on being satisfied, he handed over the prescribed form to the applicant to apply on 23/08/2012 (**Annexure – B**). Subsequently, the Executive Engineer, Malda,

Mechanical Division, P.H.E.D. vide Memo. dated 08/11/2012 (**Annexure – C**) sent documents to the Superintending Engineer, Mechanical Circle (III), P.H.E.D. Kolkata for his perusal and necessary action, which was further communicated to the Chief Engineer, Planning and Water Management, P.H.E.D., vide Memo dated 07/05/2013 (**Annexure – D**). However, Chief Engineer (Mechanical / Electrical), Southern Zone, P.H.E.D. remit back the matter to the Superintending Engineer for resubmitting the same after due correction / clarification vide Memo dated 06/06/2014 (**Annexure – E**), which was further forwarded to the Executive Engineer, Malda, Mechanical Division for taking necessary steps vide Memo dated 24/06/2014. Subsequently, the Executive Engineer sent all the required documents to the Superintending Engineer vide his Memo dated 03/03/2015 (**Annexure – H**).

As no decision was communicated, the applicant made a representation on 06/08/2015 for taking immediate action (**Annexure – I**). Again vide Memo dated 02/09/2015, the Executive Engineer sent some documents as per the observation made by the Chief Engineer, P.H.E.D. (**Annexure – J**) and in turn the Superintending Engineer vide Memo dated 28/09/2015 resubmitted some other documents.

The applicant again made a representation on 22/12/2016 but with no effect. Being aggrieved with, he had filed one O.A. 184 of 2017, which was disposed of vide order dated 14/06/2017 (**Annexure – M**) with a direction upon the Respondent No. 1 to take a decision with regard to the compassionate appointment of the applicant. In pursuance to the said order, the Respondent no.1 had rejected the prayer of the applicant in a cryptic manner without showing any reasons for such rejection vide Memo dated

29/08/2017 (**Annexure – N**). Being aggrieved the applicant has filed the instant application.

It has been further submitted by the applicant that though the Respondent no.1 has referred so many Supreme Court Cases, however, except one observation that the initial application was not registered without considering the fact that the Executive Engineer vide his Memo dated 02/09/2015 had clarified in para 5 that the letter was actually received by the Office but somehow missed docketing and had prayed for condonation of that. Therefore, the respondents have simply rejected the claim of the applicant even without showing any valid reasons for such rejection.

No reply has been submitted by the respondents and the counsel for the respondents has reiterated the rejection order.

We have heard both the parties and perused the records as well as impugned order dated 29/08/2017, wherein other than referring some Supreme Court Cases, Respondent No. 1 has observed inter alia:

“It may worthy to mention here that Sri Amit Kumar Das, Late Biswanath Das applied for employment assistance on compassionate ground on 17/03/2012 but after thorough scrutiny it reveals that the first copy of his application has never been recorded in the official register and the first prayer seems quite fake. It may worthy to mention here that a letter was issued on 02/08/2017 vide office Memo No. PHE/1889/1C-11/17, wherein he was instructed to place the original receipt copy along with the other

original documents of his application with regard to employment assistance compassionate ground within seven (07) days but the applicant was unable to produce the original document till date. The administration will be not responsible if he fails to submit his original application in time and for that the application could not be processed as per Government Orders and guidelines”.

From the perusal of the above, it is noted as the applicant did not submit any receipt before the authority, therefore, according to the Respondent No.1 it seems to be a fake one, however, the said issue was raised earlier by the Chief Engineer (Mechanical / Electrical) Sothern Zone P.H.E.D. vide his letter dated 06/06/2014, which was answered by the Executive Engineer vide his letter dated Memo 02/09/2015, which is as follows :

Observation	Reply
First Copy of prayer was not docketed in the office register. How processing was started on the basis of a letter which was not officially received.	The letter was actually received in this office, but somehow missed with docketing which may kindly be condoned.

Further from the perusal of the Memo dated 07/05/2013, it is noted that the Superintending Engineer (Mechanical Circle III) vide his Memo dated 07/05/2013 had already communicated the original application of the applicant. From the perusal of the above it seems that availability of the original application is not the dispute rather docketing or registration of the said original application was questioned by the Chief Engineer, which was

clarified by the Executive Engineer along with other clarifications as raised by the Chief Engineer. However, without rejecting the contentions of the (Executive Engineer), who is one of the respondents, the Respondent No.1 had rejected the case of the applicant without showing any reasons for such rejection. From the language of the Respondent No.1, it is also observed that the Respondent is not sure about his observation also.

In view of the above, we have no alternative to quash and to set aside the impugned order and remained back the matter to the Respondent No.1 for considering the case of the applicant afresh and to pass a reasoned and speaking order and communicate the same within a period of 10 (ten) weeks from the date of receipt of the order.

Accordingly, the OA. is disposed of.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA(SEN)
MEMBER(J)