

**IN THE WEST BENGAL ADMINISTRATIVE TRIBUNAL  
BIKASH BHAVAN, SALT LAKE CITY  
K O L K A T A – 7 0 0 0 9 1**

**Present :-**

**The Hon'ble Mrs. UrmitaDatta(Sen)  
MEMBER ( J )**

**-AND-**

**The Hon'ble Mr. P. Ramesh Kumar  
MEMBER( A )**

**J U D G E M E N T  
-of-  
Case No. OA-328 of 2017**

**Gour Sarkar.....Applicant.**

**-Versus-**

**State of West Bengal & others....Respondents**

**For the Applicants :- Mr. A. B. Chakraborty,  
Learned Advocate**

**For the State Respondents :- Mr. G. P. Banerjee,  
Learned Advocate**

**Judgement delivered on : 15<sup>th</sup> March, 2019**

**The Judgement of the Tribunal was delivered by :-  
Hon'bleMrs. UrmitaDatta (Sen), Member(J)**

**J U D G E M E N T**

The instant application has been filed mainly challenging the impugned order dated 18-07-2016 (Annexure-P6) passed by the Assistant Secretary, Government of West Bengal, Home (Police) Department by rejecting the claim of the compassionate appointment of the applicant.

As per the applicant, his father died on 12-11-2005 leaving behind his wife, 2(two) daughters and one son (applicant). As per the applicant, at the time of death of his father he was minor so his mother made a representation on 31-07-2006 requesting the respondent to appoint the applicant after being major (Annexure-P3). Subsequently after being major, the applicant made a representation dated 12-01-2014 before the authority. Thereafter the respondent had asked the applicant to appear before the Police Line on 13-01-2014. However since no information was received from the department, the applicant had preferred OA-255 of 2015 before this Tribunal, which was disposed of vide order dated 26-11-2015 with a direction to the Additional Chief Secretary, Department of Home (Police), Government of West Bengal to take a decision with regard to the compassionate appointment of the applicant and communicate the same. However unfortunately the respondent had rejected the claim of the applicant vide order dated 18-07-2016. Being aggrieved with, he has filed the instant application.

Though the respondent have not filed any reply. However the Counsel for the respondent has submitted that the case of the applicant was rightly rejected by the respondent on the ground of delayed application as well as on the ground of being minor as per the scheme of the Government. Therefore he has prayed for dismissal of this OA.

We have heard both the parties and perused the records. It is noted that in compliance of the order dated 26-11-2015 passed by this Tribunal,

the Assistant Secretary, Home (Police) Department had considered the case of the applicant and rejected holding inter alia :-

“The candidate did not submit the 1<sup>st</sup> application by himself to the post within permissible period of two years from the date of death. The candidate applied himself almost after 8(eight) years from the date of death. Also the Clause related belated request is not applicable here as the employee did not die in action, the wife of the deceased did not express her ineligibility for the job and also the candidate did not attain the minimum age of appointment within five years from the date of death.

Further, the concept of compassionate appointment is largely related to the need for immediate assistance to the family of Govt. servant in order to relieve it from economic distress. The very fact that the family has been able to manage somehow all these years, implies that family was not in immediate assistance.

Accordingly, I am directed to state that the Government regrets its inability to consider the case for appointment under the exempted category in the light of the guideline contained in Notification No. 251-Emp, dated 03-12-2013, read with the amendment 26-Emp, dated 01-03-2016 of Labour Department.

This decision has been taken with the approval of Addl. Chief Secretary, Home Department, Government of West Bengal.”

From the perusal of the documents, it is noted that the father of the applicant died in 2005 and the mother of the applicant made a representation praying for consideration of the case of the applicant attaining major since he was 11 years old only at that point of time. However as per the scheme of the department, as per settled law compassionate appointment is not a matter of right, which can be granted to overcome the sudden financial crisis occurred due to the sudden demise of the only bread earner and the department is not bound to wait for a long to

consider the compassionate appointment. In the instant case in the impugned order it has been categorically stated that the applicant was minor at the time of death of his father. Moreover, his mother did not express her ineligibility of the said job or never claim the job which fact was not denied by the applicant. Such action on the part of the applicant's family established the fact that they are not in a need of immediate economic assistance due to the death of his father. Moreover in the scheme of the department for compassionate appointment as there is a specific provision not to wait for a long period in case of minor and admittedly the applicant was 11 years old at the time of death of his father and he applied for compassionate appointment in 2014 only.

Therefore, in our considered view, the respondents have rightly rejected the claim of the applicant. Accordingly, we do not find any reason to interfere with the decision of the respondent authorities.

Accordingly, the OA is dismissed with no order as to cost.

**P. RAMESH KUMAR**  
**MEMBER (A)**

**URMITA DATTA(SEN)**  
**MEMBER(J)**

