



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

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

- a) **An order do issue directing the respondents, their agents, subordinates and successors to rescind, cancel and withdraw the impugned memo dated 19-02-2014 in Annexure-“E” to this application forthwith;**
- b) **An order do issue directing the respondents, their agents, subordinates and successors to grant compassionate appointment to the applicant No. 2 under the died-in-harness category in any post commensurate with his educational qualification forthwith without any hindrance from any quarters;**
- c) **An order directing the respondents, their agents, subordinates and successors to produce all records and proceedings so that conscionable justice may be administered by granting the relief for hereinabove;**
- d) **To pass such other or further orders or orders as to the Hon’ble Tribunal may deem fit and proper.**

As per the applicant No. 2, his father while working as Group-D staff under the establishment of District Magistrate and Collector died-

in-harness on 05-12-2011(Annexure-A). Immediately thereafter, the applicant No. 1 made an application for grant of compassionate appointment in favour of applicant No. 2 on 12-12-2011 (Annexure-B). Subsequently, the respondent authorities formed a 3(three) Men Enquiry Committee vide letter dated 24-07-2012 and the District Magistrate asked the applicant No. 2 to appear before him (Annexure-C). Thereafter the District Magistrate under Memo dated 04-12-2012 forwarded the case of the applicant No. 2 before the respondent No. 2 for necessary action (Annexure-D). However the Deputy Secretary, Government of West Bengal vide Memo dated 19-02-2014 had rejected the prayer of the applicant on the ground that at the time of death of the employee concern, the applicant No. 2 did not attain the age of 18 years (Annexure-E) as per Labour Department Order No. 251-Emp dated 03-12-2013. However the applicant again made a representation before the authority for reconsideration of his case of fresh vide letter dated 24-06-2015 (Annexure- F). The Additional District Magistrate (General), Malda vide his Memo dated 04-09-2014 again forwarded the application of the applicant to the Joint Secretary to the Government of West Bengal for reconsideration of his claim but with no result. Being aggrieved with, he has filed the instant application and challenging his rejection order.

The respondents have filed their reply wherein they have taken preliminary issue of limitation as the prayer of the applicant was rejected

on 19-02-2014 whereas the instant application has been filed on 22-02-2016 only and that too without filing any application for condonation of delay. It has been further submitted that the case of the was rightly rejected on the basis of the departmental scheme for compassionate appointment as has been enunciated in the Order No. 251-Emp dated 03-12-2013. As per the respondents, as the applicant was minor at the time of death of the employee thus he does not have any case in the instant OA. Therefore the respondents have prayed for dismissal of the OA.

We have heard the parties and perused the records. It is noted that the applicant had earlier filed another OA-970 of 2015 on same cause of action and subsequently vide order dated 12-05-2017, the applicants were allowed to withdraw the OA-970 of 2015. However the point of limitation was kept open at that point of time. It is an admitted fact that the prayer of the applicant was rejected by the respondents on 19-02-2014 and the applicant has filed this instant applicant on 22-02-2016 that too without any application for condonation of delay. Therefore the instant application is hopelessly barred by limitation as per the Section 21 of the Administrative Tribunal Act, 1985. Even the applicant has not challenged the G. O. No. 30EMP dated 02-04-2008 and No. 114 EMP dated 14-08-2008 (on the

basis of which, his case was rejected) which are binding upon both the applicant and the respondents. Therefore, we do not find any reason to entertain the OA.

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

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

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