

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Urmita Datta (Sen) Member (J) &  
Hon'ble P. Ramesh Kumar, Member (A)

OA-558 of 2018

**Rinku Upadhyay**

**Vs**

**The State of West Bengal & Ors.**

Serial No. and Date of order. 1	Order of the Tribunal with signature 2	Office action with date and dated signature of parties when necessary 3
<p><u>02</u> 25.09.2018</p>	<p>For the applicant : Mr. Dinesh Chandra Sen, Learned Advocate.</p> <p>For the respondent : Mr. S.N. Roy, Learned Advocate.</p> <p>The instant application has been filed praying for following relief :-</p> <ol style="list-style-type: none"> <li>1. A direction upon the respondents and their servants and agents, particularly the respondent No. 3 herein, to consider the case of the petitioner No. 2 and to appoint him on compassionate ground in Group – C post where vacancies are available and quash/set aside the memo dated 03.09.2013 being Memo No. 1361/RO passed by the respondent No. 3.</li> <li>2. A direction do issue prohibiting and/or restraining the respondents from withholding the sanction and/or approval of one Group –C post, to appoint the petitioner No. 2 on compassionate ground</li> </ol>	

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<p style="text-align: center;">02 25.09.2018</p> <p>Page /2</p>	<p>commensurating with his qualification in any manner whatsoever till the disposal of this application and to consider the representation dated 06.11.2017 for giving appointment to the applicant No.2 in the said Commissioner of Police, Asansol in the post of Group-C in the said respondent authority to the applicant No. 2.</p> <p>3. A direction do issue directing the respondents to transmit the entire records of the case and to certify them and on being so certified to quash the same so that due and conscionable justice may be administered to the petitioner.</p> <p>4. Ad-interim order of injunction in terms of prayer (e) above.</p> <p>5. And to pass such further or other order or orders and/or direction or directions as to this Hon'ble Court may deem fit and proper.</p>	

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<p style="text-align: center;">02</p> <hr/> <p>25.09.2018</p> <p>Page /3</p>	<p>As per the applicant No. 2, his father died on 04.06.2012. Thereafter the applicant No. 1, i.e. wife of the deceased employee, had submitted an application on 20.07.2012 praying for compassionate appointment in her favour (Annexure- A &amp; B). Further, in the meantime she applied also for her minor son, which was rejected by the authority vide communication dated 03.09.2013 (Annexure-D). Being aggrieved, they have filed this instant application.</p> <p>However, the counsel for the respondent has submitted some documents and raised the preliminary objection with regard to the maintainability of the original application. As per the respondents, they had already rejected the claim of the petitioner No. 2 vide communication dated 03.09.2013 and the said order has been challenged in the instant application in the year 2017 only. Therefore, the application is hopelessly barred by limitation. It has been further submitted by the counsel for the respondent that after rejection of the case of the applicant No. 2, the case of the applicant No. 1 ( Wife) was considered and she was asked to appear in</p>	

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<p style="text-align: center;">02 25.09.2018</p> <p style="text-align: center;">P/4</p>	<p>written examination for the post of Group-C where she failed and thereafter again her case was considered for Group-D post and which is pending for final decision before the authority. Therefore, the instant application is not maintainable.</p> <p style="text-align: center;">Heard the parties and perused the record. During the course of hearing, the counsel for the applicant has referred one judgement reported in (2006) 9 Supreme Court Cases 195 - Syed Khadim Hussain Vs. State of Bihar &amp; Ors. The relevant facts in the cited judgement and the facts in the present case is quite different.</p> <p style="text-align: center;">In the instant case, the application of the applicant No. 1 for consideration of compassionate appointment of her minor son was rejected on 03.09.2013 and the instant application has been filed in the year 2017 only. That too, without any application for condonation of delay. It is further noted that the applicants are trying to avail the consideration of both the applicants for compassionate appointment as the</p>	

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