

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

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

OA-870 of 2016

Prabodh Mondal

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>10</u> 14.09.2018</p>	<p>For the applicant : Mr. Subash Chandra Atha, Learned Advocate.</p> <p>For the respondent : Mr. Shiladitya Bhattacharya, Ms. Ruma Sarkar, Departmental Representatives.</p> <p>The instant application has been filed praying for following relief :-</p> <ol style="list-style-type: none"> 1. An order commanding the respondent and/or their agents to cancel, quash and/or set aside the impugned order and/or decision passed by the Director of the Land Records & Surveys & Joint Land Reforms Commissioner, West Bengal under Memo No. 121/951/BI/2010/2 dated 02.08.2016 rejecting the claim of the applicant on the ground of the delay in submitting of NOC from other depending members of family of the deceased Govt. employee. 2. An order directing the respondents and/or their agents to provide employment to the applicant on 	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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 style="text-align: center;">10 ----- 14.09.2018</p> <p>Page /2</p>	<p style="text-align: center;">compassionate ground under dyeing in harness category in the post of Group-D, by accepting the no objection certificates of the other legal heirs of the deceased employee submitted by the applicant, under the Govt. of West Bengal without any further delay.</p> <p style="text-align: center;">3. To pass such other order or orders as to Your Lordships may deem fit and proper.</p> <p style="text-align: center;">As per the applicant, his father died on 16.04.2007, his mother died at the time of his birth on 16.09.1977. Thereafter his father solemnized second marriage and subsequently died on 16.04.2007. As per the applicant, he came before this Tribunal earlier in two occasions first in OA-7543 of 2008 which was disposed of vide order dated 10.12.2008, by way of passing a speaking and reasoned order. Thereafter the competent authority vide their order dated 25.05.2010, the prayer of the applicant for compassionate appointment was rejected. Being aggrieved, the applicant preferred another OA being No.1340 of 2010, which was dismissed</p>	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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 style="text-align: center;">10</p> <hr/> <p>14.09.2018</p> <p>Page /3</p>	<p>vide order dated 09.12.2011. However, the applicant again approached the authority along with NOC in favour of him made by the other members of the family. However, subsequently it was rejected by the Deptt. Being aggrieved, he has filed this instant application.</p> <p style="text-align: center;">The Departmental representatives appearing for the respondents have filed their reply and raised preliminary objection on the ground that the application is barred by resjudicata as in the earlier occasions this Tribunal had rejected the claim of the applicant for compassionate appointment with a detail order. Moreover, even if the applicant subsequently filed NOC in his favour but the main purpose of the compassionate appointment has been frustrated due to the lapse of time and submission of delayed NOC.</p> <p style="text-align: center;">Heard the parties and perused the records. It is noted that the applicant had approached this Tribunal also and this Tribunal after hearing both the parties had held inter alia :-</p>	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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 style="text-align: center;">10</p> <hr/> <p style="text-align: center;">14.09.2018</p> <p style="text-align: center;">P/4</p>	<p>“On hearing both the sides, we like to record at the outset that on the examination of Departmental file and the reasoned order, we also share the view of the Departmental Representative and we may record the reasons behind our view as follows:- (i) In this particular case, the petitioner being a married man and having a separate family of his own with wife and children cannot be considered as part of the family of the deceased Govt. employee any longer. (ii) In this case, the petitioner did not get any support for his appointment on compassionate ground from other members left behind by the deceased Govt. employee and naturally there would arise a dispute who would be considered for such appointment, and last, but not the least, the very purpose of giving compassionate appointment is to render help to the family of the deceased in extreme urgency, but, here in this case, the petitioner is not a part</p>	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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>10 14.09.2018</p> <p>P/5</p>	<p>of the family of the deceased employee and in view of the objection of the other sons and the second wife, it is not possible to infer that any help to the family of the deceased will be possible by considering the applicant for a job and as such the applicant cannot get any benefit through appointment on compassionate ground.</p> <p>In the result, the application is dismissed being devoid of merit.”</p> <p>Apart from other issues and from the perusal of the above order, it is crystal clear that this Tribunal, not only on the issue of NOC but on the other issues on merit, had already considered and passed detailed order, which has been admittedly not been challenged before any higher forum. Therefore, the order dated 09.12.2011 had attained finality, which is binding upon both the parties. Therefore, in our considered view without challenging the earlier order, which was passed on merit, the applicant could not approach this Tribunal on the self same issue for granting of compassionate appointment</p>	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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 style="text-align: center;">10</p> <hr/> <p>14.09.2018</p> <p style="text-align: center;">sc</p>	<p>which is hopelessly barred by resjudicata. Accordingly, OA is dismissed being barred by resjudicata.</p> <p style="text-align: center;">P. RAMESH KUMAR MEMBER(A)</p> <p style="text-align: center;">URMITA DATTA (SEN) MEMBER (J)</p>	

ORDER SHEET

Form No.

Prabodh Mondal

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

Case No. OA-870 of 2016

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