

**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. Urmita Datta (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-1033/2014

Putul Ray.Applicant .

-Versus-

State of West Bengal & others....Respondents

**For the Applicant :- Mr. Arabinda Roy,
Ld. Advocate.**

**For the State Respondent :- Mr. Ruhul Amin Chowdhury,
Ld. Advocate.**

Judgement delivered on: 20.02.2019.

**The Judgement of the Tribunal was delivered by:-
Mrs. Urmita Datta (Sen), Member (J).**

J U D G E M E N T

1. The instant application has been filed praying for consideration of the case of the applicant for compassionate appointment. As per the applicant, her father died in harness on 11.02.2004 leaving her mother (wife) and two unmarried daughters (including the applicant). Thereafter, mother of the applicant made representation before the authority for compassionate appointment of herself on 09.03.2004 and subsequently filed proforma application before the authority. The Works Manager, Mechanise Brick Factory, Palta under the Office of Directorate of Brick Production, Housing Department vide letter dated 16.02.2006 forwarded the name of the mother of the applicant along with other necessary documents to the Director, Brick Production. However, as no communication was made to the mother of the applicant the counsel of the applicant sent one Demand Notice dated 27.01.2010 on behalf of the mother of the applicant and other similarly situated persons. In reply to the said demand notice, The Works Manager (Brick) dated 27.01.2010, the Advocate of the applicant was informed by the Director, Brick Production vide letter dated 15.02.2010, wherein it has been stated that the case of the applicant is under process for sending the same to the higher authorities for approval.
2. Thereafter, the applicant along with other similarly circumstances persons (whose names were communicated by the Works Manager (Brick) vide letter dated 16.02.2006) had filed one OA No.457 of 2010 jointly before this Tribunal. However, the application was dismissed for non-prosecution with a liberty to the applicants to file separate application before this Tribunal afresh vide order dated 10.11.2010. After waiting for a certain period, the counsel for the applicant again sent Demand Notice to the Respondent since no action has been taken till then. However, subsequently she fell ill. The advocate on behalf of the mother vide letter dated 17.02.2014 sent Demand Justice and has prayed for compassionate appointment in favour of the applicant. Since no action has been taken, being aggrieved she has filed the instant application.
3. The applicant has also filed one application for condonation of delay wherein they have stated that due to paucity of fund and ill health of the mother of the applicant she could not file separate application as per the liberty granted by this Tribunal in earlier occasion.

4. The respondents have filed their written statements. As per the respondents, the application of the wife of the deceased employee i.e. Mongola Roy was forwarded to the Housing Department through the office Memo dated 28.03.2006. OSD & Ex-Officio Deputy Secretary, Housing Department intimated vide Memo dated 15.04.2008 that her case was discussed in the meeting of the Nodal Committee held on 08.03.2008 and recommendation was made by the said Committee which was duly intimated to the said Mongola Roy. Subsequently, mother of the applicant further applied and also submitted formal application in pursuance to Circular No. 567(100) dated 18.11.97 for appointment on compassionate ground. After scrutinizing the same, it was sent to the Secretary, Housing Department through Directorate of Brick Production, Housing Department, Memo dated 21.05.2011 for necessary approval. Since the Housing Department is the administrative department, the Directorate of Brick Production is still awaiting for the decision of the authority. It has been further submitted that in the meantime the government has issued G.O.No.251 Emp dated 03.12.2013, wherein it has been clearly mentioned in Para 14(b) which is as follows:-

“The indisposed cases before 01.01.2005 excepting those which are exempted in sub para (a) of the para above will be enquired into afresh to ascertain, if need, for financial assistance in the form of compassionate ground still exists. Such enquiry is to be completed within a period of three months.”

5. The respondent also has raised objection on the point of limitation as well as the locus standi of the applicant as she never applied for any compassionate appointment but has filed the instant application. Therefore, the respondent has prayed for dismissal of the OA.
6. Heard the parties and perused the records.
7. It is noted that though the mother of the applicant made application in 2004 and her case was recommended by the Works Manager (Brick Factory) along with others but, as per the respondent her case was rejected and subsequently the mother of the applicant again had submitted representation and the said application is still pending for final decision. In the meantime, mother of the applicant approached this Tribunal along with others. Subsequently, this Tribunal had dismissed OA on the ground of not being pressed with a liberty to all the parties to approach separately. However, no fresh application was filed in the meantime though the Advocate of the applicant had

approached the authority for consideration of the case of the applicant in place of her mother. However, it is noted that no formal application has been made by the applicant before the authority as the Demand Notice sent by the Advocate of the applicant also speaks about the consideration of the applicant's mother case. Only, in the last letter dated 17.02.2014, the counsel for the applicant had prayed for consideration of the case of the applicant. It is further noted that though this Tribunal had granted liberty to the applicant's mother to file separate application but the applicant has approached this Tribunal in 2014 only that too without making any representation before the authority.

8. Therefore, in our considered view, she has no locus standi to approach this Tribunal when the mother of the applicant had all along approached the authority and her case is still pending before the authority. Moreover, this application is hopelessly barred as the cause of action had arisen in 2004 even, if we accept that the cause of action has been supported by granting of liberty in 2010 even then the application is barred by four years with regard to the mother of the applicant. Therefore, the main purpose of the compassionate appointment has already been frustrated due to the lapse of the time though the respondents are also equally responsible for such delay by not ascertaining final decision with regard to the mother of the applicant. Therefore, we do not find any reason to entertain the OA. Accordingly, the OA is **dismissed with the above observation** with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)