

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

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No OA- 108 OF 2016

BANIBRATA KARAK Vs. 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 style="text-align: center;"><u>08</u> 19.04.18</p>	<p>For the Applicant : Mr.M.N.Roy Learned Advocate</p> <p>For the Respondent : Mr.S.Bhattacharya Ms.R.Sarkar (Departmental Representatives)</p> <p>The applicant has prayed for direction upon the respondents to give appointment to the applicant on compassionate ground on the basis of the application submitted on February 26, 2013.</p> <p>It appears from the materials on record that one Kashinath Karak died on March 22, 2011 while he was working as Government employee in the office of the Respondent No.7. The applicant being the son of Kashinath Karak, submitted application in the prescribed format for compassionate appointment. The said application was considered by the respondents and on June 27, 2014, the Respondent No. 4 recommended the case of the applicant for giving compassionate appointment. However on June 25, 2015, the said Respondent No.4 gave recommendation for rejection of prayer of the applicant on the ground that the applicant was minor at</p>	

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	<p>the time of death of his father. Ultimately, on January 29, 2015, the Respondent No. 3 communicated to the applicant and the Respondent No. 4 the fact of rejection of prayer of the applicant on the ground of minority by issuing letter dated January 29, 2015.</p> <p>Mr.M.N.Roy, Learned Counsel representing the applicant has challenged the order of rejection of prayer for compassionate appointment on the ground that the respondents have considered prayer of the applicant in accordance with the provisions laid down in the Government Order of 2013, while prayer of the applicant should have been considered in accordance with Government Order of 2008 which was in force at the time of death of the father of the applicant. Mr. M.N.Roy has relied on the decision of the Hon'ble Supreme Court in "Canara Bank and Another V. M.Mahesh Kumar" reported in (2015) 7 SCC 412 in support of his above contention.</p> <p>Mr.S.Bhattacharya, the authorised representative of the State Respondents has supported the order of</p>	

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	<p>rejection of prayer for compassionate appointment and contended that the minor applicant cannot be given appointment on compassionate ground particularly when the applicant will attain majority almost after two (02) years from the date of death of his father. The argument advanced by Mr.S.Bhattacharya is that there was no need of immediate financial assistance to the family of the deceased employee, as the members of the family decided to wait for about two (02) years for attaining majority of the minor applicant to get employment.</p> <p>On consideration of the judgement of the Hon'ble Supreme Court in "Canara Bank V M.Mahesh Kumar " (Supra) we find that the Hon'ble Supreme Court has laid down in paragraph 17 of the judgment that the scheme for compassionate appointment which was in force when cause of action for compassionate appointment arose, will be followed for consideration of prayer for compassionate appointment, as the subsequent scheme floated for consideration of compassionate appointment cannot have retrospective</p>	

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	<p>effect. In view of the above proposition of law, the Notification No. 30-EMP dated April 2, 2008 issued by the Labour Department, Government of West Bengal, which was in force at the time of death of the father of the applicant, should have been considered for deciding the prayer of the applicant for compassionate appointment. The letter by which rejection order was communicated to the applicant has not disclosed that prayer of the applicant for compassionate appointment was decided in accordance with notification of the Labour Department issued on April 2, 2008. In view of our above findings, the letter dated January 29, 2015 issued by the Respondent No.3 is hereby set aside.</p> <p>Accordingly, the Respondent No.1, Principal Secretary, Department of Land & Land Reforms, Government of West Bengal is directed to consider prayer of the applicant for compassionate appointment in accordance with notification of the Labour Department, Government of West Bengal which was in force at the time of death of the father of the applicant and on the basis of materials available on record within a</p>	

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BLR	<p>period of twelve (12) weeks from the date of communication of the order and to communicate the result of the same to the applicant within a period of two (02) weeks thereafter. With the above direction, the original application is disposed of.</p> <p>Let a plain copy of the order be supplied to both parties.</p> <p>(S.K.Das) MEMBER(A)</p> <p>(R.K.Bag) MEMBER (J)</p>	