

**ORDER SHEET**

**WEST BENGAL ADMINISTRATIVE TRIBUNAL**

**Present-**

**The Hon'ble JUSTICE RANJIT KUMAR BAG  
& The Hon'ble DR. SUBESH KUMAR DAS**

**Case No – OA 109 OF 2018**

**Rina Sarkar + Another 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 style="text-align: center;"><u>02</u> 27.06.2018</p>	<p><i>For the Applicants : Mrs. S. Mitra , Learned Advocate.</i></p> <p><i>For the Respondent No. 1 : Mr. S. Ghosh, Learned Advocate.</i></p> <p><i>For the Other Respondents : Mrs. S. Agarwal, Learned Advocate.</i></p> <p style="text-align: center;"><i>One Dilip Sarkar, predecessor in interest of the applicants died on November 16, 2010 while he was working as Electrician in the office of Assistant Engineer (Agri-Mech), Kalyani in the district of Nadia. The application submitted by the applicant no. 2 for compassionate appointment was processed by the respondents and ultimately claim of the said applicant was turned down by the Department of Water Resources and Investigation, Government of West Bengal and the said fact was communicated by the Assistant Secretary to the Government of West Bengal of the concerned department under letter dated March 22, 2013. The claim of the applicant no. 1 for compassionate appointment was again considered by the Department of Water Resources Investigation and Development, Government of West Bengal, but the claim was rejected and the fact of</i></p>	

# ORDER SHEET

Rina Sarkar + Another

Form No. ....

**Vs.**

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

Case No. – OA 109 OF 2018

*rejection was communicated by the Assistant Secretary to the Government of West Bengal, Department of Water Resources Investigation and Development under letter dated August 16, 2017. It appears from the said letter dated August 16, 2017 that the Government cannot reconsider claim of the applicant No. 1 for compassionate appointment as the case of the applicant no. 1 is not covered under Notification issued in the year 2013.*

*Mrs. Mitra, Learned Counsel for the applicants, contends that the case of the applicant no. 1 will be governed by Notification issued by the Labour Department in the year 2008, as the cause of action for compassionate appointment of the applicants arose in the year 2010 when Notifications issued in the year 2008 were in force. Mr. Ghosh, Learned Counsel representing the state respondent no. 1, submits that the cases for compassionate appointment which were not disposed of till the date of issuance of Notification by the Labour Department in the year 2013 will be governed by the Notifications issued in the year 2013. We have also heard Mrs. Agarwal, Learned Counsel representing the state respondents No. 2 to 6.*

*On consideration of letter dated August 16, 2017 by which the fact of rejection of prayer of the applicant no. 1*

## ORDER SHEET

Rina Sarkar + Another

Form No. ....

**Vs.**

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

Case No. – OA 109 OF 2018

*for compassionate appointment was communicated, we find that the Department of Water Resources Investigation and Development has not disclosed the specific reasons for rejection of claim of the applicant no. 1 for compassionate appointment. That apart, we are of the view that the cause of action for compassionate appointment of the applicant no. 1 arose when the husband of the applicant no. 1 died and as such, the Notification issued by the Labour Department, Government of West Bengal which was in force when the cause of action arose will be applicable for consideration of claim of the applicant no. 1 for compassionate appointment.*

*In view of our above findings, the letter dated August 16, 2017 (page 28 of the original application) and letter dated March 22, 2013 (Page 25 of the original application) are set aside. We direct the respondent no. 2, Principal Secretary to the Government of West Bengal, Department of Water Resources Investigation and Development to consider the claim of the applicant no. 1 for compassionate appointment on the basis of the materials already available and in accordance with the provisions of Notification No. 30-Emp. dated April 2, 2008 and Notification No. 114-Emp. dated August 14, 2008 issued by the Labour Department, Government of*

**ORDER SHEET**

**Rina Sarkar + Another**

Form No. ....

**Vs.**

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

Case No. – **OA 109 OF 2018**

*West Bengal within a period of 16 (sixteen) weeks from the date of communication of the order and to communicate the result of the same to the applicant no. 1 within a period of 2 (two) weeks thereafter.*

*The applicant no. 1 is directed to serve copy of this order and copy of the original application along with annexures on the respondent no. 2 by Speed Post within a period of 2 (two) weeks from this date.*

*With the above direction, the original application is disposed of.*

*Let a plain copy of this order be supplied to all the parties.*

**( S.K.DAS )  
Member ( A )**

**( R.K.BAG )  
Member ( J )**

*H.S*