

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

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

**Case No – OA 143 of 2018.**

**Hemanta Maity & 02 Ors – 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>01 05.04.2018.</p>	<p>For the Applicants : Mrs. S. Agarwal, Mr. S. C. Dhara, Ld. Advs.</p> <p>For the State Respondents : Mr. S. Ghosh, Ld. Adv.</p> <p>The applicants have prayed for direction upon the respondents to give appointment to the applicant no. 1 on compassionate ground.</p> <p>It appears from the materials on record that one Kajal Kanti Maity died on March 04, 2006 while he was working as Operator under Deep tube-well scheme in the district of Hooghly. The wife of the applicant submitted one application before the Block Development Officer, Khanakul-I Development Block on November 22, 2006 praying for compassionate appointment of herself. However, on February 25, 2012 the applicant no. 1 submitted formal application for compassionate appointment along with all necessary documents. Ultimately prayer of the applicant no. 1 for compassionate appointment was rejected and the said rejection order was communicated under letter dated July 05, 2017 (annexure G to the Original Application).</p>	

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	<p>Mrs. Agarwal Ld. Counsel representing the applicant has made two fold submissions : first, the reasons for rejection of prayer of the applicant no. 1 for compassionate appointment have not been disclosed in the letter dated July 05, 2017 and secondly , the prayer of the applicant no. 1 for compassionate appointment has been considered in accordance with Labour Department Notification No. 251-Emp dated December 03, 2013 and Notification No. 26-Emp dated March 01, 2016, whereas the prayer of the applicant should have been considered on the basis of Notification No. 97-Emp dated June 06, 2005 issued by the Labour Department, Government of West Bengal, which was in force at the time of death of the father of the applicant no. 1 . On the other hand, Mr. Ghosh, Ld. Counsel representing the State Respondents has also made two fold submissions : first, the application submitted by the applicant no. 1 after six years of death of his father is barred by limitation as per G.O. providing scheme for compassionate appointment and secondly, the case of the applicant has been rightly considered in accordance with Labour Department Notifications issued in the year 2013 and in the year 2016, as the case of the applicant was undisposed on the date of issuance of</p>	

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	<p>notification by the Labour Department , Government of West Bengal in the year 2013.</p> <p>Having heard Ld. Counsel representing both parties and on consideration of the materials on record, we find that the wife of the deceased employee submitted application before Block Development Officer, Khanakul-I Development Block on November 22, 2006 for compassionate appointment and the father of the applicant no. 1 died on March 04, 2006 and as such we are of the view that the prayer of the applicant no. 1 should have been considered in accordance with Notification No. 97-Emp dated June 06, 2005 which was in force at the relevant point of time. We fully agree with the submission made on behalf of the applicant that the reasons for rejection of prayer of the applicant no. 1 have not been disclosed in the letter dated July 05, 2017. With regard to delay in filing of the application for compassionate appointment, we are not inclined to make any observation at this stage. Since the prayer of the applicant no. 1 was rejected without disclosing the reasons and since the prayer of the applicant no. 1 has not been considered in accordance with the Notification of the Labour Department, which was in force at the</p>	

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	<p>relevant point of time, we would like to set aside the letter dated July 05, 2017 (annexure G to the Original Application).</p> <p>In view of our above findings, the letter dated July 05, 2017 issued by the Assistant Secretary to the Government of West Bengal , Department of Water Resources Investigation and Development, Government of West Bengal is quashed. The Respondent No. 1, Secretary, Department of Water Resources Investigation and Development, Government of West Bengal is directed to consider the prayer of the applicant no. 1 for compassionate appointment in accordance with the provisions of Notification No. 97-Emp dated June 06, 2005 issued by the Labour Department , Government of West Bengal and on the basis of the materials available on record and to pass a reasoned order within a period of twelve weeks from the date of communication of the order. The said respondent No. 1 will communicate the copy of the reasoned order to the applicant no. 1 within a period of two weeks from the date of passing of the reasoned order.</p> <p>With the above observation the Original Application is disposed of.</p>	

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Skg.	<p style="text-align: center;">Let a plain copy of the order be supplied to both parties.</p> <p>(S.K.Das) Member (A)</p> <p style="text-align: right;">(R.K.Bag) Member (J).</p>	

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