

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

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

Case No – OA-149 OF 2017

MOSTAFIZUR RAHAMAN SARDAR 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>03</u> 13.03.18</p>	<p>For the Applicant : Mr.Z.Islam Learned Advocate</p> <p>For the Respondent : None</p> <p>The applicant has challenged the order dated October 5, 2016 passed by the Respondent No. 2, Director of Health Services, Government of West Bengal as illegal and arbitrary by filing original application under Section 19 of the Administrative Tribunals Act, 1985.</p> <p>The contention of the applicant is that the impugned order dated October 5, 2016 was passed by the Respondent No. 2 on the basis of direction given by this Tribunal on July 20, 2015 in connection with OA-433 of 2014. It appears from the order dated July 20, 2015 passed by the Tribunal in OA-433 of 2014 that the Tribunal had set aside the order passed by the Respondent No. 2 by rejecting prayer for compassionate appointment which was passed on the basis of Labour Department Notification No. 97-EMP dated June 6, 2005. The specific direction of the Tribunal was to reconsider</p>	

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	<p>the case of the applicant for compassionate appointment without being guided by the Notification No. 97-EMP dated June 6, 2005 issued by the Labour Department, Government of West Bengal. On perusal of the impugned order under challenge in the original application, we find that the prayer of the applicant for compassionate appointment was rejected on two grounds: first, the application was filed by the applicant after long lapse of 7 years from the date of death of the concerned employee and secondly, there was no need of immediate financial assistance to the members of the family of the deceased employee.</p> <p>Learned Counsel for the applicant has urged the Tribunal to consider that there was virtually no delay on the part of the applicant in submitting the application for compassionate appointment as the mother of the applicant submitted the application in time and the present applicant has stepped into the shoes of her mother on the basis of the liberty granted by the Hon'ble High Court in WPST No. 133 of 2012. Learned Counsel has relied on the decision of the Hon'ble Supreme Court in "Syed Khadim Hussain V. State of Bihar & Ors." reported in (2006) 9 SCC 195 and the decision of the</p>	

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	<p>Division Bench of the Hon'ble High Court in the case of "Syed Iftikar Ali V. State of West Bengal" reported in 2011 (2) CHN (CAL) 17 in support of his above contention. In "Syed Khadim Hussain V. State of Bihar & Ors." (supra) the widow of the deceased employee submitted the application in time and her son stepped into her shoes after attaining majority and as such the Supreme Court gave direction to the authority concerned to consider the case of the applicant for compassionate appointment. In "Syed Iftikar Ali V. State of West Bengal" (supra) the widow of the deceased Teacher applied for compassionate appointment within the prescribed period of limitation and her son stepped into her shoes due to her ill health and as such the Division Bench of the Hon'ble High Court gave direction to the authority concerned to consider the case of the applicant for compassionate appointment. We fully agree with the proposition of law laid down by the Hon'ble High Court and the Hon'ble Supreme Court. In the instant case, the applicant stepped into the shoes of her mother who submitted the application within the prescribed period of limitation for compassionate appointment and as such</p>	

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	<p>the delay of 7 years in submitting the application cannot be the ground for refusal of prayer for compassionate appointment. However, the application for compassionate appointment was not only rejected on the ground of delay, but the same was also rejected for absence of immediate need of financial assistance to the members of the deceased family. In the absence of any evidence to the contrary, we cannot persuade ourselves to disagree with observation made by the Respondent No. 2 about want of immediate need of financial assistance to the member of the deceased family. Since the object of giving compassionate appointment to any dependent of the deceased employee is to tide over the acute financial crisis caused by premature death of the sole bread winner of the family and since in the instant case, there was no need of immediate financial assistance to the members of the deceased family, we cannot persuade ourselves to intervene in the reasoned order passed by the Respondent No. 2.</p> <p>As a result, the original application is dismissed.</p>	

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BLR	<p style="text-align: center;">Let a plain copy of the order be supplied to Learned Counsel for the applicant.</p> <p style="text-align: center;">(S.K.DAS) MEMBER(A)</p> <p style="text-align: center;">(R.K.BAG) MEMBER (J)</p>	