

**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-170/2017**

**Sumit Kumar Poddar. ....Applicant .**

**-Versus-**

**State of West Bengal & others....Respondents**

**For the Applicant                      :-    Mrs. Archana Manna,  
Ld. Advocate.**

**For the State Respondent           :-    Mr. Sankha Ghosh,  
Ld. Advocate.**

**Judgement delivered on: 14.08.2019.**

**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 following relief:
  - a) To pass an order with a mandatory direction to the concerned respondent authority to give an employment to the petitioner on a compassionate ground in place of his deceased father who died in harness during his service period as a Health Inspector under the Government of West Bengal in the last posting under the Block Medical Officer of Health Baneswarpur Block Primary Health Centre Mograhat, Block-I, District South 24-Parganas.
  - b) To pass an order to forebear and giving effect and further effect to the impugned order dated 4.1.2017 and 29.4.2014 passed by the Director of Health Services as annexure "F" and "K" respectively to this petition and to quash them all;
  - c) To pass such further order or direction as to Your Lordships may seem fit and proper.

As per the applicant, his father died on 01.10.2012 leaving behind his wife, two sons including the applicant. Subsequently, the mother of the applicant made an application for compassionate appointment in favour of the applicant on 16.03.2013 (Annexure-D) followed by the application submitted by the applicant for compassionate appointment dated 13.03.13 (Annexure-E). However, the Directorate of Health Services, vide their communication dated 29.04.14, had rejected the claim of the applicant on the ground that as per Note © of Clause 6 of Labour Department Notification No.251-Emp. Dated 03.12.2013, the applicant should attained minimum age for recruitment within six months from the date of death of the concerned employee. As the date of birth of the applicant was 22.12.96, therefore, he could not fulfill the criteria stipulated in the said notification. Thus, his claim was rejected (Annexure-F). Being aggrieved with, the applicant preferred an application before this Tribunal being OA 601 of 2016, which was disposed of on 20.07.2016 directing the respondents to consider the case of the applicant afresh after quashing the impugned order dated 29.04.2014 (Annexure-J). In pursuance to the said order, the Directorate of Health Services vide his order dated 04.01.2007 had considered the case of the applicant and rejected the plea that at the time of taking any decision on 29.04.2014, the applicant was 17 years 4 months 8 days. Therefore, he was minor at the

time of consideration also (Annexure-K). Being aggrieved with, the applicant has filed the instant application.

Though, enough opportunity was granted to the respondents to file reply, but no reply has been filed. However, the counsel for the respondent has submitted that even the applicant was minor at the time of taking decision on 29.04.14. As per the applicant, he is the youngest son who was minor at the time of death of his father. Whereas, obviously there were other two persons i.e. the mother of the applicant and his elder brother who was major at that point of time. Therefore, they could have applied for compassionate appointment if they were in desperate need of financial assistance.

Heard both the parties and perused the records. It is noted that the father of the applicant died on 01.10.2012, when the applicant was 15 years 9 months 8 days as the date of birth of the applicant is 22.12.1996. Further, when the case of the applicant was considered that on 29.04.14, the applicant was only 17 years 4 months 8 days i.e. the applicant was even minor at time and consideration also.

Further, we are also agreeable with the contention of the respondents that the family of the applicant was in financial crisis due to the death of the father of the applicant then the two other members of the family would have prayed for compassionate appointment in favour of any of them. But, they did not do so. Therefore, the main purpose of the compassionate appointment to provide financial assistance due to the sudden death of only bread earner has been frustrated. Thus, we do not find any reason to interfere with the decision of the respondents. Accordingly, the OA is **dismissed** being devoid of merit with no order as to costs.

**P. RAMESH KUMAR**  
**MEMBER (A)**

**URMITA DATTA (SEN)**  
**MEMBER (J)**