

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

The Hon'ble Mrs. Urmita Datta (Sen), Member(J)

The Hon'ble Mr. P. Ramesh Kumar, Member(A)

Case No – OA- 358 of 2019.Debajyoti Roy. Vs The State of West Bengal & Others.

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>5</p> <hr/> <p>17/07/2019</p>	<p>For the Applicant : Mr. Indradeep Pal, Mrs. Sougata Pal(Das), Ld. Advocates.</p> <p>For the State Respondents: Mr. G.P. Banerjee, Mr. S. Ghosh, Ld. Advocates.</p> <p><i>Affidavit of service filed be kept on record.</i></p> <p><i>The instant application has been filed praying for following reliefs;</i></p> <p><i>a. An Order to set aside the impugned order dated 21.05.2018 passed by the respondent No.2 i.e. Joint Secretary, Government of West Bengal, Department of Public Works Department;</i></p> <p><i>b. An order be passed directing the respondent authorities to consider application of applicant for Compassionate Appointment and grant appointment to the applicant forthwith considering the Enquiry Report and Revised Calculation Sheet;</i></p> <p><i>c. An Order directing the respondents to produce entire record on the instant issue before the Learned Tribunal at the time of hearing for appropriate adjudication of the issue and conscionable justice.</i></p>	

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	<p><i>d. Such other and/or further order or orders as may be deemed fit and proper.</i></p> <p><i>Leave is granted to the applicant to add Principal Secretary, PWD as respondent No.1(A). As per the applicant, his father died on 06.01.2015 while working as Mohurrior Gr.II under Superintending Engineer, Western Circle, Social Sector, PWD, Purba Bardhaman. Immediately after the death of his father, his mother made an application for compassionate appointment in his favour on 04.02.2015. The applicant also subsequently filed an application for compassionate appointment on 08.04.2015 (Annexure P/3). Thereafter, Enquiry Committee was constituted and the enquiry committee vide their report dated 11<sup>th</sup> May 2016 (Annexure P/6) had recommended the case of the applicant before the Competent Authority. However, the Joint Secretary, Public Works Department vide his order dated 21.05.2018 had rejected the claim of the applicant on the ground that since he is working as Civic Volunteer under the Government of West Bengal, he cannot be granted compassionate appointment. As per the applicant, from the perusal of the calculation sheet submitted by the Superintending Engineer, Western Circle, Social Sector, PWD, (Annexure P/8), it would be</i></p>	

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	<p><i>evident that the total family income is less than the last gross salary of the deceased employee. Therefore, as per financial norms, he should be considered for compassionate appointment. Further, though he is working in a post of "Civic Volunteer", however the post of "Civic Volunteer" is not permanent employment under the State Government rather this is a voluntary post. Therefore, he can be terminated at any point of time or voluntarily he can opt out from this voluntary job. Therefore, the respondents should not treat it as an employment.</i></p> <p><i>During the course of hearing, the counsel for the respondents has also admitted that it is a voluntary post and his gross income is less than the gross 90% salary of the deceased employee.</i></p> <p><i>Heard both the parties and perused the records. It is an admitted fact that the post of "Civic Volunteer" is a voluntary post, which cannot be treated as an employment under State Government. In view of the above, we quash and set aside the impugned order dated 21.05.2018 and direct the Principal Secretary, PWD i.e. respondent No.1A. to reconsider the case of the applicant afresh and take decision as per rules and communicate the same within a period of eight (08) weeks from the date of this order. Accordingly, the OA is <b>disposed of</b> with</i></p>	

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GM	<p><i>the above observation and direction with no order as to cost. The applicant is directed to serve a copy of this order along with application to the Principal Secretary, PWD Department.</i></p> <p><b>P. RAMESH KUMAR MEMBER(A)</b>                      <b>URMITA DATTA (SEN) MEMBER(J)</b></p>	