

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-781 of 2016.****Raj Kumar Pal. 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>08</p> <hr/> <p>12/09/2018</p>	<p>For the Applicant : Mr. Allen Felix, Advocate.</p> <p>For the State Respondents: Mrs. Mousumi Mallick, Advocate.</p> <p><i>The instant application has been filed praying for</i></p> <p><i>a) An order or direction do issue commanding the respondents not to proceed with the application submitted by the elder brother of the applicant any further.</i></p> <p><i>b) An order or direction do issue directing the respondent concerned to issue the proforma to the applicant for getting the compassionate appointment forthwith.</i></p> <p><i>c) Cost of this application.</i></p> <p><i>d) Any other order or orders as this Tribunal may deem fit and proper.</i></p> <p><i>According to the applicant his father died on 03.03.2011 leaving behind his widow and three sons namely Arun Kr. Pal, Sukumar Pal and Raj Kumar Pal (applicant). After the death of his father, the elder brother Arun Kr. Pal had applied for compassionate appointment on 29.08.2011 along</i></p>	

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	<p><i>with a declaration by way of affidavit affirmed by their mother Smt. Tapeswari Pal. However, according to the applicant he is the eligible candidate to be considered for compassionate appointment and he filed the application in this regard on 17.08.2011. According to the applicant, he came to know by some other source on 14.10.11 that the case of his elder brother is going to be considered for compassionate appointment. Immediately, thereafter he sent advocate's notice on 29.12.2011 (Annexure A/4) requesting the respondent No.5 to disclose the name of the nominee as recorded in the service book as well as to send him the prescribed proforma for filling up so that he can get the compassionate appointment in place of his deceased father as he is the only educated son in his family. Thereafter, he received one reply dated 10.02.12 by which he was informed that name of his mother was recorded in the service book of the deceased father. She has already received the death benefit like gratuity, leave salary, GPF etc. (Annexure A/5). Thereafter, the applicant sent a representation dated 10.03.13 asking for prescribed proforma for compassionate appointment (Annexure A/6). Getting no response from the respondent, he has filed the instant application. The respondents</i></p>	

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	<p><i>have filed their reply wherein they have specifically submitted that after the death of deceased employee the elder son of the deceased employee applied for compassionate appointment along with the affidavit filed by the wife of the deceased employee wherein it has been specifically stated that her second and third son, Sukumar Pal and Raj Kumar Pal(applicant) are living separately and therefore, she had given her consent in favour of elder son. However, all the testimonials submitted by the elder son Arun Kuma Pal was verified and found false and fabricated and subsequently his claim was rejected. However, it has been specifically stated that no application for compassionate appointment has been received by the respondents from the applicant. Therefore, they have prayed for rejection of the instant OA. The applicant has filed rejoinder wherein he has reiterated his earlier submissions. He has further submitted that he has filed application with all supporting documents on 17.08.2011 which would be evident from the letter dated 04.10.11(Annexure B). During the course of hearing, the counsel for the applicant has further submitted that he is the only educated person in the family and he should be granted compassionate appointment. Heard the parties and perused the</i></p>	

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	<p><i>records. It is noted that the concerned employee died on 03.03.2011. The instant application has been filed in the year 2016 only that is after five years. Moreover, from the records and documents as claimed to be application for compassionate appointment as annexure it is noted that the lawyer's notice dated 29.12.11 is as follows:-</i></p> <p><i>“Under instructions and duly authorised by my clients (1) Sri Sukumar Pal (2) Sri Raj Kumar Pal both are the sons of Late Sunil Kr. Pal of Rathtala, Itvata Colony, P.o. Kanchannagar, P.S + Dist. Burdwan I hereby give you request letter, that my clients father Susil Kr. Pal was an employee as ‘Khalasi Post’ under D.C. Hd. Qtrs. Sub Division, I&W Dte, Govt.of West Bengal/or your office and he was died on 03/03/2011 at B.M.C.H. P.s.+ Dist. Burdwan. That my client's have not getr the service benefits after the death of their father, and my aforesaid client wants to get correct and clear account which as service benefits of Susil Kr. Pal and they are got the said money as legal</i></p>	

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	<p><i>heirs.”</i></p> <p><i>From the above, it is noted that this notice only asked for details of the service benefit but, this letter does not reflect any application for compassionate appointment. Further, again in the so called application dated 28.11.2011 annexure A/6 it is noted that Sri Sukumar Pal (2nd son) and Sri Raj Kumar Pal (3rd son) by that letter had only asked for details of the service benefit without any receipt of the same. It is further observed in the rejoinder that the applicant had claimed that he had approached the authority on 17.08.2011 which would be evident from the letter dated 14.10.11 Annexure B. However, from the perusal of the annexure B, it is noted that there is no documents dated 14.10.11 as Annexure B to the rejoinder rather Annexure B contains affidavit declaration dated 17.08.2011 made by the mother of the applicant which specifically indicated that the applicant is living separately and is not looking after the mother. In view of the above, it is crystal clear that no application has been made before the authority though the authority received one application for compassionate appointment from the elder brother of the applicant which was not found fit. Moreover, the instant application has been filed after five years</i></p>	

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GM	<p><i>from the date of death of deceased employee. It is settled position of law that the compassionate appointment is not matter of right. The main purpose of the compassionate appointment is to overcome the sudden financial crisis occurred due to sudden demise of the sole bread earner and in the instant case as per the documents enclosed by the applicant himself as well as declaration made by the mother. The applicant is living separately with his family and is not looking after the mother. Therefore, the applicant cannot be treated as a dependent of his father. Moreover, he never made any application before the authority and approached this Tribunal after five years. Therefore, we are not inclined to entertain the instant application. Accordingly, the OA is dismissed with no order as to cost with above observation.</i></p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	