

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Present-

**The Hon'ble Mrs. Urmita Datta (Sen), Member (J) &
The Hon'ble Dr. Subesh Kumar Das, Member (A).**

OA -845 of 2018

Shubhendu Bhattacharya

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
<u>16</u> 22.12.2020	<p>For the petitioner : Mrs. S. Agarwal, Learned Advocate.</p> <p>For the respondent : Mr. M.N. Roy, Learned Advocate.</p> <p style="text-align: center;">The instant application has been filed mainly challenging the order dated 08.05.2018, whereby the candidature of the applicant for compassionate appointment was rejected on the ground that he did not submit proforma application within six months of time.</p> <p style="text-align: center;">As per the applicant, his father died on 27/12/2008 followed by his mother's death on 30/04/2009. In the meantime, the applicant had made a plain paper application before the authority on 12/01/2009 (Annexure 'D'), which was received by the authority on the same date. However, the authority did not supply any proforma to enable him to submit proforma application. As nothing was communicated to him, being aggrieved, he had filed one OA No. 517/2017, which was disposed of vide order dated 20/07/2017 with a direction to the respondents to take a decision after giving an opportunity of hearing to the applicant within a</p>	

ORDER SHEET

Form No.

Shubhendu Bhattacharya

Vs.The State of West Bengal & Ors..Case No. OA -845 of 2018

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>stipulated period of time (Annexure É'). Unfortunately, no steps was taken by the respondent and the applicant was compelled to file one CCP No. 16/2018 and during the pendency of the said contempt petition, the respondent no. 2 passed an order dated 08/05/2018 rejecting the claim of the applicant on the ground that the said employment was not sought in prescribed proforma within six months from the date of death of the deceased employee and though they also stated that the said rejection order was duly communicated vide this Memo dated 05/12/2014 (Annexure 'F'). Being aggrieved with the applicant has filed the instant application. As per the applicant, he was never supplied with any proforma neither any three men's committee was ever constituted to consider his case. Further, no rejection order dated 05/12/2014 was ever communicated to the applicant. Even when the earlier OA was heard on 20/07/2017, the counsel for the respondent never submitted that the rejection order was already communicated to him. Therefore rejection of the claim of compassionate appointment of the applicant is not sustainable as the applicant had already applied in plain paper on 12/01/2009. During the course of the hearing, the</p>	

ORDER SHEET

Form No.

Shubhendu Bhattacharya

Vs.The State of West Bengal & Ors..Case No. OA -845 of 2018

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>counsel for the applicant referred one Judgment dated 05/12/2018 passed in OA 664 of 2016, wherein it has been held that since the supply of prescribed format is not under the control of the applicant, therefore non-submission within stipulated period cannot be the ground for rejection if the said applicant had already made application within six months time in plain paper. No reply has been filed though enough opportunity was granted to the respondents to file reply. The counsel for the respondents has reiterated the submission already made in the impugned order.</p> <p>We have heard the parties and perused the records. It is noted that the applicant had already submitted his application for compassionate appointment on 12/01/2009 i.e. within one month from the date of death of his father. It is also reflected in the order dated 20/07/2017 passed in OA 517 of 2017. In the said order, it was also recorded that the applicant filed a representation for taking action of his application on 30/12/2015 also before the Director of Agriculture, which was neither controverted by filing any reply or making submission during the hearing of OA 517 of 2017 nor any</p>	

ORDER SHEET

Form No.

Shubhendu Bhattacharya

Vs.The State of West Bengal & Ors..Case No. OA -845 of 2018

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
Csm	<p>reply has been filed in this case denying the same. As per the applicant he was never served with any proforma application which is not within his control. Therefore the respondent cannot reject his claim on the ground that the proforma application has not been filed within stipulated period of time though the applicant had already submitted the plain paper application on 12/01/2009. In view of the above, we quash and set aside the order dated 08/05/2018 passed by the Director of Agriculture and Ex-Officio Secretary, Government of West Bengal and remand back the matter to the Additional Chief Secretary, Department of Agriculture, Government of West Bengal to reconsider the case of the applicant if he would be otherwise found fit for compassionate appointment after supplying him proforma application and to take a decision in this regard and communicate the same within three months from the date of receipt of the order. Accordingly, OA is disposed of with no order as to cost.</p>	
	<p>SUBESH KUMAR DAS MEMBER (A)</p>	<p>URMITA DATTA (SEN) MEMBER (J)</p>