

**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-981/2017**

Pinku Roy.Applicant.

-Versus-

State of West Bengal & others....Respondents

**For the Applicant :- Mr. Goutam Pathak Banerjee,
Mr. Gautam Thakur,
Ms. Anandamoyi Ghosh,
Ld. Advocates.**

**For the State Respondent :- Mr. Manujendra Narayan Roy,
Ld. Advocate.**

Judgement delivered on: 12th October 2018.

**The Judgement of the Tribunal was delivered by:-
Mr. P. Ramesh Kumar, Member (A).**

J U D G E M E N T

The applicant being aggrieved by the impugned order of Additional Chief Secretary, Government of West Bengal, Public Health Engineering Department wherein the prayer of the applicant for compassionate appointment was rejected, filed the present OA in the Tribunal requesting for the following reliefs:-

- (1) An order may be passed quashing and/or setting aside the impugned order dated September 8, 2017 under Memo No. PHE/2211/1C-17/2017 passed by the Additional Chief Secretary, Public Health Engineering Department, Government of West Bengal, New Secretariat Buildings, 7th Floor, 1, Kiran Sankar Roy Road, Kolkata-700 001 being the respondent -2 herein in rejecting the claim of the applicant for compassionate appointment under the 'died-in-harness' category after the death of his father, while he was in service, being Annexure –“S” to the instant original application.
- (2) A direction be issued upon the Additional Chief Secretary, Public Health Engineering Department, Government of West Bengal, New Secretariat Buildings, 7th Floor, 1, Kiran Sankar Roy Road, Kolkata-700 001 to issue the letter of appointment in favour of the applicant on compassionate ground under the 'died-in-harness' category to the post of Group-D in terms of the scheme and policy decision of the statute framed by the Government of West Bengal circulated in various orders and notifications from time to time.
- (3) A direction be issued upon the concerned respondent/respondents to forthwith produce and/or cause to be produced the entire records of the case relating to the applicant's case and on such production being made, render conscionable justice upon perusing the same.
- (4) Pass such other or further order or orders and/or direction or directions as this Hon'ble Tribunal may deem fit and proper.”

The counsel for the petitioner has submitted that the applicant's father joined as helper under worked charged establishment on April 10, 1986. Thereafter, he was regularized and on the date of death i.e. 30.07.2006, he was working as ex-senior workman and was posted at Coochbehar Mechanical Sub Division Office at Siliguri. On September 4, 2006, the wife of the deceased has made an application to appoint her elder son by name Pinku Roy, which was duly recommended and forwarded by the concerned authorities after the enquiry committee submitted its report recommending the candidature of Pinku Roy. After due process being completed and after necessary verification &

correction of documents, the Chief Engineer requested for re-submitting the documents as per requirement, which was also completed as requested. As there is no response coming from the appropriate authorities, the applicant made a demand justice on May 2, 2017. Thereafter, he filed OA being No.460 of 2017 in this Tribunal, which was disposed of by the Tribunal on July 5, 2017 by pronouncing the order which has been produced below and which was duly served to the concerned authorities by the applicant on August 10, 2017.

“After the death of the Bread-Winner Late Nagendra Nath Roy necessary prayer for Compassionate Appointment was made by the Applicant. Since the results of such prayer were not made known to the Applicant he has approached this Tribunal. It appears that process was initiated on the basis of the prayer for Compassionate Appointment of the Applicant however, no final decision was taken. The Tribunal finds that such process in respect of the prayer for Compassionate Appointment of the applicant has reached a final stage and it is now required that a formal decision be taken.

As such, the Tribunal disposes of the Application by directing the Secretary, Public Health Engineering Department to give an opportunity of hearing to the Applicant and thereafter inform the decision taken by him. He is requested to comply with the Order of the Tribunal within a period of 3 (three) weeks from the date of receipt of this Order.

The Application is accordingly disposed of.

Let a plain copy of this Order be issued.”

Basing on order dated 10.8.2017, the Additional Chief Secretary of PHE Deptt., who was the competent authority, directed the applicant to appear before him with all relevant documents. After the personal hearing of the applicant, the Addl. Chief Secretary by a reasoned order dated September 8, 2017 issued the impugned order wherein the application has been rejected because his age on that particular period i.e. on the date of his father's death was 16+ years and hence his candidature could not be considered as per Labour Department order/guidelines.

The counsel for the respondent enumerated various rules and regulations and schemes of labour deptt, from time to time in regard to the compassionate appointment and clarify that as the age during the entry of the government service should be minimum 18 years and as on

the date of death of the father the applicant was only 16+ years and hence his case was rejected as per the existing schemes/ rules applicable as on the date.

Heard the parties and perused the records as well relevant Rules.

It is noted that the applicant was minor when he or his mother filed application for compassionate appointment. Minority issue has always been addressed in almost all the concerned memos and G.Os explicitly and also requested for eligible family members to apply instead of minor being approached as scheme gets frustrated as the family was to live in financial distress till the minor becomes major. Therefore, in our considered opinion even after explicit precautions are included in the scheme, applying for minor and waiting till his becoming major will frustrate the scheme. Hence, basing on the above observations, this court has found no merit in this case. Accordingly, the petition is **dismissed** being devoid of merit with no order as to costs is passed.

No order as to costs is passed.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)

