

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

The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das

Case No – OA 150 OF 2017

ZEESHAN AKHTAR Vs 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
<p>1</p> <hr/> <p>13.03.2018</p>	<p>For the Applicant : Mr. Ziaul Islam Learned Advocate</p> <p>For the Respondent: None</p> <p>Affidavit of service filed on behalf of the applicant is kept on record. None appears on behalf of the respondents on call inspite of service of notice as reflected from the affidavit of service filed on behalf of the applicant.</p> <p>The applicant has prayed for setting aside the order dated November 3, 2016, issued by the Joint Secretary to the Government of West Bengal, Department of Animal Resources Development by filing the original application under Section 19 of the Administrative Tribunals Act, 1985.</p> <p>It appears from the impugned order dated November 3, 2016 that the Department of Animal Resources Development refused the prayer of the applicant for compassionate appointment on the ground of delay in submitting the application. The contention of the</p>	

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	<p>applicant is that the father of the applicant, Dr. Alimul Islam Ansari died on May 16, 2001 while he was in service. The mother of the applicant submitted application for compassionate appointment on July 5, 2001, but the mother of the applicant did not pursue her case for compassionate appointment on the ground of illness. The present applicant submitted informal application for compassionate appointment on march 15, 2006 and application in prescribed format on August 10, 2007. The question of consideration of the Tribunal is whether the delay in submission of application by the applicant can be taken into consideration by the authority concerned for rejecting prayer of the applicant for compassionate appointment.</p> <p>Relying on the decision of the Hon'ble Supreme Court in "Sayed Khadim Hussain v. State of Bihar and Others" reported in (2006) 9 SCC 195 and the decision of the Hon'ble High Court in "Syed Iftikar Ali v. State of West Bengal" reported in 2011 (2) CHN (CAL) 17, Learned Counsel for the applicant submits that the delay in submission of the application cannot be taken into consideration by the authority concerned as the applicant stepped into the shoes of her mother, who submitted the</p>	

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	<p>application within prescribed period of limitation. In “Sayed Khadim Hussain v. State of Bihar & Ors.” (Supra) the widow of the deceased employee submitted application for compassionate appointment within prescribed period and the son of the deceased employee stepped into the shoes of her mother on attaining majority after long lapse of six years, but the Hon’ble Supreme Court directed the authority concerned to consider the case of the son of the deceased employee for compassionate appointment. Similarly, in “Syed Iftikar Ali v. State of West Bengal” (Supra), the Hon’ble Division Bench of the High Court dealt with the case where the widow of the deceased teacher claimed appointment on compassionate ground by filing application within prescribed period of limitation, but she gave up her claim in favour of her son due to ill health. The Division Bench of the Hon’ble High Court directed the authority concerned to consider the case of the son of the deceased teacher for compassionate appointment in spite of delay in submission of the application by the son as the son stepped into the shoes of her mother for the purpose of compassionate appointment.</p> <p>In view of the above proposition of law laid down</p>	

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	<p>by the Hon'ble Division Bench of our High Court and the Hon'ble Supreme Court of India, we do not find any justification in rejecting the prayer of the applicant for compassionate appointment on the ground of delay when the applicant stepped into the shoes of her mother, who submitted the application within the prescribed period of limitation. In view of our above findings, the order dated November 3, 2016 passed by the Secretary to the Government of West Bengal, Department of Animal Resources Development (Annexure "N" to the original application) is set aside.</p> <p>The respondent No. 2, Principal Secretary, Department of Animal Resources Development, Government of West Bengal is directed to reconsider the case of the applicant for compassionate appointment on merit on the basis notification of the Labour Department, Government of West Bengal which was in force on the date of death of the father of the applicant and on the basis of materials available on record within a period of twelve weeks from the date of communication of the order and to communicate the same to the applicant within a period of two weeks thereafter.</p>	

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SCN.	<p>The applicant is directed to forward a copy of the order along with copy of the original application with annexures to the respondent No. 1 by speed post within a period of two weeks from this date.</p> <p>With the above direction, the original application is disposed of.</p> <p>Let a plain copy of the order be supplied to the Learned Counsel for the applicant.</p> <p>(S.K. Das) MEMBER (A)</p> <p>(R.K. Bag) MEMBER (J)</p>	