

**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 Smt. Urmita Datta (Sen)
Member (J)**

-AND-

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

J U D G M E N T

-of-

Case No. O.A. - 186 of 2017

Gopal Chandra BharApplicant

-Versus-

State of West Bengal & others....Respondents

**For the Applicant : - Mr. Mohammad Mahmud,
Advocate.**

**For the State Respondent:- Mr. Goutam pathak Banerjee,
Advocate.**

Judgment delivered on : 14th March, 2019

**The Judgment of the Tribunal was delivered by :-
The Hon'ble Smt. Urmita Datta (Sen), Member (J)**

Judgement

1. The instant application has been filed praying for following relief(s):

“(i) A Mandatory order to be passed to quash and/or set aside the impugned order dated 8th December, 2016 bearing Memo No. 1185/PW/O/W(ECG) 3GP-30/15 passed by the respondent no. 2 and take steps to give appointment to the applicant on compassionate ground as dependent of the deceased employee, Jyotish Chandra Bhar, Ex-Chowkidar under the respondent authorities.

(ii) A mandatory order to be passed further directing the respondents more particularly the respondent nos. 2(v) to consider the written objection of the applicant dated 12.01.2017 being annexure “N” of the instant application;

(iii) to direct the respondents particularly the respondent nos. 2 (ii) and 2(v) to give appointment to the applicant on compassionate ground;

(iv) To pass such other or further order or orders as to Your Lordships may deem fit and proper”

2. As per applicant, his father while posted as Chowkidar in the office of Assistant Engineer, Hooghly Sub-Division under Western Circle – II, Public Works Department, died in harness on 01.04.2014 leaving behind his wife, three sons and two married daughters. The applicant being the younger son of the deceased employee had prayed for compassionate appointment, however,

as no decision was communicated to him, he approached this Tribunal in O.A. No. 228 of 2016, which was disposed of vide order dated 19.08.2016 with a direction upon the respondents to take decision with regard to the prayer of compassionate appointment and communicate the same within stipulated period of time. In compliance to the said order dated 19.08.2016, the Principal Secretary to the Govt. of West Bengal, Public Works Department vide his order dated 8th December, 2016 had rejected the claim of the applicant on the ground that the monthly income of the family of the deceased employee does not fall below the 90% of the gross monthly salary of the employee before death and / or the monthly income of the family does not fall below the minimum salary of a Group – D employee since both other two sons are in service and staying along with the family of the applicant. Being aggrieved with, the applicant has filed the instant application. As per the applicant though his elder brothers are married and working however they are staying separately and had already granted no objection in favour of the applicant. Further, the applicant was also dependent upon his father, therefore, he has prayed for compassionate appointment.

3. Though the respondents have not filed any reply, however, the counsel for the respondent has vehemently objected the contention of the applicant. The counsel for the respondent has drawn our attention to the pro-forma application filed by the applicant in column 3 of para 2, wherein there was a specific column about the particulars of all the dependent of the deceased. The applicant himself declared that two sons also living with the family who are married and in service. As per the respondent, now the applicant cannot claim that his other two elder brothers living separately. Therefore the case of the applicant was rightly rejected on the ground that total monthly income of the family

does not fall below the 90% of the gross monthly salary of the employee after considering the salary of both the sons as well as other family income. Accordingly, the respondents have prayed for dismissal of the O.A.

4. We have heard both the parties and perused the records. It is noted that the case of the applicant was rejected on the ground that the monthly income of the family of the deceased employee does not fall below 90% of the gross monthly salary of the employee before death and as per the provisions laid down in para 6(a) (i) & (ii) of the Labour Department's Notification No. 251-EMP dated 03.12.2013. However, the applicant never challenged or disputed the calculation of gross income of the deceased but has only taken the plea that the other two brothers are residing separately whereas in his pro-forma, he has clearly declared that the other sons are also living with the family but only the daughters are living separately being married. Even the Enquiry Committee in his report also mentioned that the applicant is living with his family members in his father's house. Therefore, we do not find any reasons to interfere with the decision of the respondent. Accordingly, the O.A. is dismissed being devoid of merit with no order as to cost.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)