

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-215 of 2016.Sourav Majumdar. 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 style="text-align: center;">14</p> <p style="text-align: center;">-----</p> <p style="text-align: center;">16-04-2019</p>	<p>For the Applicant : Mr. Debabrata Karan, Mr. Debopriyo Karan, Advocates.</p> <p>For the State Respondent : Mr. S. Bhattacharyya, Departmental Representative</p> <p>The instant application has been filed praying for direction upon the respondent to provide compassionate appointment of the applicant. As per the applicant, his father died on 28-10-2009 and subsequently his mother applied for compassionate appointment on 01-01-2010. However his case was rejected by the competent authority vide order dated 04-07-2012 as per the Labour Department's Notification No. 30-Emp dated 02-04-2008 and G.O. No. 144-Emp dated 14-08-2008. Being aggrieved with, he has filed the instant application.</p> <p style="text-align: center;">As per the applicant though the case of</p>	

ORDER SHEET

SouravMajumdar

Form No.

Vs.**The State of West Bengal & Others.**Case No. **OA-215 of 2016.**

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>the applicant was rejected referring 2(two) G.O.'s of the department. However no detailed reasoning has been shown in the impugned order.</p> <p>The respondents have filed their written reply wherein they have stated that the case of the applicant was considered in the light of the G.O. dated 02-04-2008 and 14-08-2008 as the applicant had filed the prescribed proforma beyond 6(six) months' time as well as the gross monthly income of the family was more than 90%. Moreover the applicant was not solely dependent upon his father as the mother of the applicant was also working as Home Guard and the entire family income has to be considered and since in his case there total family income is more than 90% of the income of the deceased employee. Therefore as per the circular, the total income of the family has to be considered. Thus after considering the mother's income and other income, it was found that the applicant is not suffering any financial hardship due to the death of the father of the applicant. Therefore the Counsel for the Departmental</p>	

ORDER SHEET

SouravMajumdar

Form No.

Vs.**The State of West Bengal & Others.**Case No. **OA-215 of 2016.**

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>Representative has prayed for rejection of the OA.</p> <p>The applicant has filed his rejoinder where he has basically reiterated the submission made in the OA. However he has further submitted that as the applicant's mother is a lady Home Guard, therefore her salary should not be considered while rejecting the claim of the applicant.</p> <p>We have heard both the parties and perused the records. It is noted that the case of the applicant was rejected on the ground being not found fit as per the G.O. dated 04-07-2012 though in the impugned order no details ground has been referred while rejecting the case of the applicant. However as per the submission as well as reply filed by the respondent, the case of the applicant was rejected mainly on 2(two) grounds :-</p> <p>(1) The applicant had filed the proforma application beyond 6(six) months' time.</p>	

ORDER SHEET

SouravMajumdar

Form No.

Vs.**The State of West Bengal & Others.**Case No. **OA-215 of 2016.**

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>(2) The gross income of the family is more than 90%.</p> <p>With regard to the rejection on the ground of filing of compassionate appointment by way of filing proforma application. It is observed that the applicant's mother had filed application for compassionate appointment on 01-01-2010. Therefore rejection on the ground that the proforma application has been filed for later than the prescribed period is not entertainable as the said issue has already attaining finality as was held by this Tribunal that the plain paper application should be treated as an application for this purpose. However with regard to the income of the family is more than 90%, it is noted that the applicant though claimed that their total family income of less than 90%, but he has not brought on record any calculation or documents to substantiate his claim that the total family income of the applicant is less than 90%. It is also noted that the mother of the applicant was working as lady Home Guard. Therefore it is</p>	

ORDER SHEET

SouravMajumdar

Form No.

Vs.**The State of West Bengal & Others.**Case No. **OA-215 of 2016.**

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
Mihir	<p>not acceptable that the applicant was solely dependent upon the father only and his financial distress has caused due to the death of the sole bread earner. In the case of Umesh Kumar Nagpal Vs. the State of Haryana it is reported in 1994 (4) SCC 135, it has been held by the Apex Court that the main purpose of the compassionate appointment is to enable the family to overcome the sudden crisis cause due to the sudden demise of the sole bread earner. In the instant case the applicant's mother was also government employee, thus we do not find any reason to entertain the instant OA. Accordingly, the OA is dismissed being devoid of merit.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

ORDER SHEET

SouravMajumdar

Form No.

.....

Vs.

The State of West Bengal & Others.

Case No. OA-215 of 2016.

Serial No. and Date of order. 1	Order of the Tribunalwith signature 2	Office action with date and dated signature of parties when necessary 3