

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-317 of 2017.Indrajit Ghosh + 3 Others. 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;">12</p> <p>-----</p> <p style="text-align: center;">05-09-2019</p>	<p>For the Applicants : Mr. S. K. Seal, Mr. S. Seal, Advocates.</p> <p>For the State Respondents : Mrs. S. Agarwal, Advocate.</p> <p style="text-align: center;">The instant application has been filed praying for the following reliefs :-</p> <p style="text-align: center;">a) Leave may be granted to file and move the instant application;</p> <p style="text-align: center;">b) An order setting aside order dated 06-11-2015 being Annexure A2 to the instant Application and further directing Respondent Nos. 2, 3 and 4 to consider the application which is Annexure 'A-2' to this application and further commanding he Respondent Nos. 2, 3 and 4 to take expeditious administrative steps by giving employment to the applicant on</p>	

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	<p>compassionate ground for mitigation of the suffering of the applicants and dependents of the deceased employee.</p> <p>c) Any such other order or orders as this Hon'ble Tribunal may deem fit and proper;</p> <p>As per the applicant, his father died on 16-05-2009. Thereafter he approached the authority for compassionate appointment. However the authority vide their order dated 06-11-2015 have rejected the claim of the applicant on the ground that the applicant's family income was more than 90% income of his father. Being aggrieved with, he has filed the instant application.</p> <p>The respondents have filed their reply wherein they have categorically submitted that:-</p> <p>“.....after receiving all the required documents the prayer of the applicant was scrutinized in the light</p>	

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	<p>of Labour department's Notifications No. 30-EMP dated 2.4.2008 read with 114-EMP dated 14.8.2008 and found that the financial criteria as laid down in the said notification is not fulfilled in the instant case taking into account the family income just after the death of the Ex-employee = R. 16,287/- [Rs.6,587(Ffamily pension) + Rs.3825/- (interest income at the rate 8 P.A) accrued from the amount (Rs. 5,73,721/-) of death benefit including G.P.F. +Rs.5000/- (monthly income of other dependants of the deceased employee) + R. 875/- (income from moveable and immoveable properties)] exceeds (i) Rs.13,050/- which is 90 per cent of the monthly salary (Rs. 14,500/-) last drawn by the Ex-employee and (ii) Rs.8,946/- that is the minimum salary of Group D employee at the material point of time that is just after the date of</p>	

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	<p>death of the Ex-employee. I say that in the said context the prayer of the applicant was rejected by the competent authority and was informed vide memo No. HPA/G-263/2011/A-7064 dated 6.11.2015. It is pertinent to state that the financial calculation has been made taking into account the amount of family pension and all other income as on May, 2009...”.</p> <p>Therefore as per the respondents as the family income of the applicant is more than 90% of gross income of his father, therefore the respondents has rightly rejected the claim of the applicant.</p> <p>Though the applicant has filed rejoinder. However he did not raised any dispute in calculation submitted by the respondents.</p> <p>We have heard both the parties and</p>	

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Mihir	<p>perused the records. It is noted that the respondent has considered the case of the applicant as per the relevant Labour Department Circular for compassionate appointment wherein it has been specifically stipulated that the gross family income of the candidate should not be more than 90% of the gross income of the deceased employee. However from the perusal of the calculation submitted by the respondents, it is noted that the gross family income of the applicant is more than 90% of the gross income of his deceased father which fact have not been denied by the applicant. Therefore in our considered view, the respondents have rightly rejected the claim of the applicant as per their scheme. Accordingly, OA is dismissed being devoid of merit with no order as to cost.</p> <p>P. RAMESH KUMAR MEMBER(A)</p> <p>URMITA DATTA (SEN) MEMBER(J)</p>	

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