

**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-458 of 2016.**Prosenjit Bhattacharjee. 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;">09</p> <p>-----</p> <p style="text-align: center;">23-04-2019</p>	<p>For the Applicant : Mr. S. N. Roy, Mrs. S. Das, Advocates.</p> <p>For the State Respondent : None.</p> <p>The instant application has been filed challenging the impugned order dated 08-01-2016 whereby the claim of the applicant for compassionate appointment was rejected on the ground that the present monthly income of the family of the applicant is more than 90% of the last gross pay of the Ex-employee. As per the applicant, his mother died on 02-10-2002 while working as mid wife in the Balurghat District Hospital. Thereafter the applicant approach the authority for compassionate appointment on 06-04-2006 and he make second representation before the authority (Annexure-‘A2’). In the meantime, the father of the applicant, who was also a government employee died on 24-02-2013. However the</p>	

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	<p>respondent authority vide their order dated 03-10-2012 had also rejected the case of the applicant on the ground that the case of the applicant does not fulfil the Labour Department's G.O. dated 02-04-2008 as well as 14-08-2008 (Annexure-A3). Being aggrieved with, the applicant had challenged the said rejection order before this Tribunal in OA No. 697 of 2013, which was disposed vide order dated 13-08-2015 by quashing the first impugned order dated 03-10-2012 with an observation that the pension and last salary of the deceased employee was not compared with. Thereafter the respondent again considered the case of the applicant. However they rejected the case of the applicant on the ground that the present monthly income of the family being Rs. 10,610/- is more than both the 90% of the last gross pay of Ex-employee i.e. Rs. 8,760/- and also minimum gross pay of an employee in the post of Group-C at rate prior to ROPA – 2009 i.e. Rs. 7,990/- as the mother of the applicant died in the year 2002 before ROPA – 2009. Being aggrieved with, the applicant has filed the</p>	

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	<p>instant application.</p> <p>No reply has been filed. Heard the Counsel for the applicant and perused the records. It is noted that in the earlier occasion, this Tribunal in their order dated 13-08-2015 had observed and directed inter alia :-</p> <p><b>“We have found that the calculation in respect of the family income of the present petitioner was erroneously made. They have not compared the pension and the last salary with reference to the same date.</b></p> <p><b>We feel that the calculation is required to be done afresh after necessary correction. Accordingly we will set aside the aforesaid memo of the Respondent No. 3 (Director of Health Services) and direct that a fresh decision in respect of the compassionate appointment of the present petitioner be taken on the basis of the fresh calculation of the family income of the</b></p>	

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Mihir	<p><b>present petitioner.”</b></p> <p>In pursuance to that, the respondents have considered the case of the applicant and rejected his claim holding inter alia :-</p> <p><b>“Now, let us see the fact why his prayer was rejected on the basis of the criteria as laid down in Emp-30 dated 02-04-2008 and its modified form issued in Emp-114 dated 14-08-2008.</b></p> <p><b>Calculation (based on fact and figures prior to ROPA” 2009)</b></p> <p>a) <b>Total amount of death benefits received (excluding GPF contribution)- Rs. 3,53,392</b></p> <p>b) <b>Monthly family pension (prior to ROPA” 2009)@ Rs.3,000/-as per PPO- Rs. 4,330/-</b></p> <p>c) <b>M.I. on death benefits @ 8% p.a. on Rs. 3.53,392/- <span style="float: right;">Rs.</span> 2,356/-</b></p> <p>d) <b>Income from other sources (pension</b></p>	

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	<p><b>of father @ Rs. 2712/-) Rs.</b> <b>3,924/-</b></p> <p><b>e) Total Monthly Income(b+c+d) - Rs.</b> <b>10,610/-</b></p> <p><b>f) 90% of Rs. 9733/- (last gross pay of ex-employee) - Rs.</b> <b>8,760/-</b></p> <p><b>From the above calculation it is evident that present monthly income of Rs. 10,610/- is more than both the 90% of the last gross pay of Ex-employee i.e. Rs. 8,760/- and also minimum gross pay of an employee in the post of Group-C at rate prior to ROPA – 2009 i.e. Rs. 7,990/-.</b></p> <p><b>Thus the financial condition did not satisfy the criteria laid down in the said Emps based on the above calculation and logically as per Rule the prayer of the applicant is not entertained anymore.....</b></p> <p><b>Thus, going through all the relevant records, papers and documents between the lines, I am of the opinion that the</b></p>	

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	<p><b>petitioner's claim in the said representation is not just and fails to maintain in conformity with the Rule as sated above in details.</b></p> <p><b>Hence, the matter is disposed of after having considered his prayer in accordance with law.”</b></p> <p>It is also observed that though the mother of the applicant died in 2002, however the father of the applicant was a government employee under Transport Department and was withdrawing his own pension along with the family pension of his wife till his death and the applicant is the only son along with his 3(three) married sisters.</p> <p>Therefore in our considered opinion the respondents have rightly rejected the claim of the applicant being not found any financial distress. Even the applicant is also not able to satisfy us about any discrepancy in the calculation of the financial aspect. Therefore we do not find any reason to entertain the instant</p>	

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	<p>application. Accordingly, the OA is dismissed being devoid of merit.</p> <p><b>P. RAMESH KUMAR MEMBER(A)</b>                      <b>URMITA DATTA (SEN) MEMBER(J)</b></p>	