

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-****The Hon'ble Smt. Urmita Datta (Sen), Member (J)****& The Hon'ble P. Ramesh Kumar, Member (A)****Case No OA - 527 of 2016****Arpan De Sarkar –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;"><u>8</u> 9.10.2018</p>	<p><i>For the Applicant: Mrs. S. Mitra, Advocate.</i></p> <p><i>For the Respondents : Mr. S. Bhattacharjee, Ms. R. Sarkar, (Departmental Representatives) Land & Land Reforms Deptt.</i></p> <p><i>The instant application has been filed challenging the impugned order dated 19.02.2016 which was passed in pursuance to the direction of this Tribunal dated 19.01.2016 in O.A. No. 472/2015. As per the applicant, his father died on 19.03.2010 leaving his wife, son and daughter. Thereafter, the applicant applied for compassionate appointment before the authority on 19.05.2011. However, though his case was considered by Three-men Enquiry Committee and was also recommended by them but subsequently, his case was rejected vide communicated order dated 12.04.2012 but subsequently the proposal for employment assistance on compassionate ground was rejected by 12th September, 2014. Being aggrieved with, he had filed one O.A. No. 472/2015 which was disposed of vide order dated 19.01.2015 by setting aside the rejection order dated 12.09.2014 with a direction to the authority to consider the prayer of compassionate appointment on the basis of existing materials without being guided by the question of delay. In pursuance to the said instant impugned order whereby the case of the applicant has been</i></p>	

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	<p><i>rejected on the ground that the petitioner does not satisfy the prime condition of immediate need for employment assistance. Being aggrieved with, the applicant has filed the instant application. As per the applicant, though the applicant earlier approached this Tribunal and this Tribunal had set aside the rejection order and had asked the respondent to consider his case on the basis of Three-men Enquiry Committee's report. However, the respondent again on the same ground rejected the claim of the applicant. According to the applicant, the ground of rejection of non-fulfilling of immediate need for employment assistance is contrary to the Three-men Enquiry Committee's report. Therefore, the rejection order is liable to be set aside.</i></p> <p><i>We have heard the parties and perused the records. It is noted that the earlier occasion the respondents had rejected the claim of the applicant on the ground of delay beyond six months and this Tribunal while deciding the case has observed and directed inter alia</i></p> <p><i>"In our opinion, there is substance in the submission of the D.R. for the L. & L.R. Department, but the issue is required to be viewed from a different angle. Even though admittedly the Application was filed beyond the prescribed period (19.05.2011) whereas the</i></p>	

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	<p><i>death of the bread-winner of the family took place on 19.06.2010, instead of out-right rejection of the same, the Authority perpetuated the issue almost to its final stage.</i></p> <p><i>A Three-men Enquiry Committee was held and all other necessary steps were taken for processing the prayer for compassionate appointment.</i></p> <p><i>Apart from the fact that the issue was practically reaching its logical conclusion, the action of the Authority in continuing with the process even though it was time barred is acquiescence by necessary implication.</i></p> <p><i>Accordingly, we are of the view once the Authorities have proceeded to near finality, after observing the formalities, abandoning the process at this state was not proper.</i></p> <p><i>Accordingly we set aside the memo No. 118 / 1613 / BI / 2012 / 6 dated 12th September 2014 on behalf of the D.L.R. & Surveys and Joint Land Reforms Commissioner, West Bengal and direct him to consider the prayer for compassionate appointment afresh on the basis of existing materials without being guided by the question of delay.</i></p>	

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	<p><i>He will take a decision in respect of the prayer for compassionate appointment within a period of six weeks from the date of communication of this order and thereafter forthwith convey his decision to the Applicant.</i></p> <p><i>The Application is accordingly disposed of."</i></p> <p><i>However, from the perusal of the order, it is noted that the respondents Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal has observed and inter alia</i></p> <p><i>"On receiving the said prayer a three man committee was formed by the District Authority to conduct the necessary enquiry. Two reports dated 04.11.2011 and 23.08.2013 were submitted by the said committee. Both the reports were forwarded to Land and Land Reforms Department via this Directorate of Land Records and Surveys. In response to that, after careful consideration, the Land and Land Reforms Department expressed its inability to accede to the proposal as the said application has been submitted after 14(fourteen) months from the date of death of the deceased employee.</i></p>	

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	<p><i>Considering the above facts and circumstances it appears that the family of the deceased employee has survived 14 (fourteen) long months i.e. from 19.03.2010 to 19.05.2011 without having any employment assistance which means the family of the deceased was not at all in need of immediate assistance. In terms of Labour Department's notification number 30-EMP, dated Kolkata, the 2nd April, 2008 and subsequent notification number 251-EMP, dated Kolkata, the 3rd December, 2013 one of the dependents of a Government Employee who dies in harness or who retires prematurely on being declared permanently incapacitated may be offered appointment on compassionate ground if the family of the deceased of the retired employee as the case may be is in need of immediate assistance.</i></p> <p><i>Therefore upon hearing the petitioner and considering the guideline provided by the aforesaid notifications of Labour Department I find that the case of the petitioner does not satisfy the prime condition of immediate need for employment assistance.</i></p>	

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	<p><i>Hence, order that the prayer of the petitioner are considered and rejected.</i></p> <p><i>The petitioner and the District Land and Land Reforms Officer, Burdwan be informed accordingly.</i></p> <p><i>Thus the order of the Hon'ble West Bengal Administrative Tribunal dated 19.01.2016 passed in O.A. No. 472 of 2015 is complied with."</i></p> <p><i>From perusal of the above, it is noted though the respondents earlier order was rejected by this Tribunal, however again the respondent authority on the same issue had rejected the claim of the applicant on the same ground i.e. no need of immediate assistance, though the Three-men Enquiry Committee's report is in favour of the applicant, which was not even being controverted by the deciding authority. Further though the authority has mentioned Labour Department's EMP-30 dated 02.04.2008 as well as EMP-251 dated 03.12.2103 where two years time has been stipulated for consideration even then on contrary to the said fact the authority had opined that the applicant has no need of financial assistance immediately since he approached the respondents after six months.</i></p> <p><i>In view of the above, we are of the opinion that the</i></p>	

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A.K.P.	<p><i>contention of the authority is self-contradictory as well as contrary to the observations / direction of this Tribunal's earlier order dated 19.01.2015 passed in O.A. No. 472/2015. Accordingly, we quash and set aside the order dated 19.02.2016 and directing the respondent No. 1 to reconsider the case of the applicant keeping in view of the observations as well as Three-men Committee's Report and to pass a reasoned and speaking order as per relevant circular and take a decision and communicate the same within a period of three months from the receipt of the order. Accordingly, the O.A. is disposed of with the above observation and direction with no order as to cost.</i></p> <p>P. RAMESH KUMAR MEMBER (A)</p> <p>URMITA DATTA (SEN) MEMBER (J)</p>	