

**ORDER SHEET****WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

The Hon'ble Smt. Urmita Datta (Sen), Member (J)

&amp; The Hon'ble P. Ramesh Kumar, Member (A)

Case No OA - 538 of 2018

Ayan Adhikary –Vs- The State of West Bengal &amp; 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>1</u> 29.08.2018</p>	<p><i>For the Applicant : Mr. D.K. Mukherjee, Advocate.</i></p> <p><i>For the Respondents: Mr. R.A. Chowdhury, Advocate.</i></p> <p><i>Affidavit of service filed be kept with the record.</i></p> <p><i>The instant application has been filed praying for the following relief(s):</i></p> <p><i>“i) Your Lordships be graciously pleased to direct the Respondent No. 1 and 2 not to stick to their earlier decision taken in their impugned Memo No. 2008-Cot(II)/2S-75/99 dated 6<sup>th</sup> July 2000 which has been set aside by this Hon'ble Tribunal on 18-12-2015 in O.A. No. 132 of 2015 (Dinesh Pramanik –Vs- State of West Bengal &amp; Ors.) and to consider the prayer of the applicant for compassionate appointment on merit only with a positive outlook dispensing with the technicalities, if any, stand in the way and to give him an appointment to a Group – ‘D’ post with the view to remove discrimination among the State Govt. employees belong to Group – ‘D’</i></p>	

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	<p><i>Cadre.</i></p> <p><i>ii) Any other Order / Orders the Hon'ble Tribunal may deem fit and proper in the facts of the case.</i></p> <p><i>iii) Delay, if any, due to misleading and inaction of the concerned Authority may kindly be condoned and the matter may be adjudicated on merit only for the ends of justice and equity."</i></p> <p><i>According to the applicant, his mother died on 10.01.2013, whose date of superannuation was 30.01.2013. However, he had approached the authority praying for compassionate appointment on 01.03.2016. As he was prevented by the advice of some authority, he could not file the instant application for compassionate appointment before the authority within short span of time. However, since no action has been taken by the authority, being aggrieved with, he has filed the instant application.</i></p> <p><i>The counsel for the respondent has raised preliminary objection on the ground of limitation both in filing the instant application as well as approaching the authority. According to the counsel for the respondent, as</i></p>	

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	<p><i>per the claim of the applicant, he filed application before the authority on 01.03.2016 whereas his mother died on 10.01.2013 i.e. three years prior to the date of the application. Further as per the 251-EMP of 2013, for the compassionate appointment, the incumbent has to approach the authority within two years from the date of death of the deceased employee. It has been further submitted by the counsel for the respondent that the employee died only 20 days before the date of retirement and her husband was also a retired Govt. employee. Therefore, as there is no question of financial hardship, the applicant is not entitled for compassionate appointment.</i></p> <p><i>Heard the parties and perused the records, it is noted that the applicant has filed this application for compassionate appointment three years after the death of the deceased employee even the instant application has been filed two years thereafter in the year 2018 only without any application for condonation of delay. It is noted that in prayer 3, the applicant has prayed for condonation of delay as according to him it was caused due to misleading and inaction on the part of the concerned authority. However, we do not find these reasons to be sufficient as the concerned employee died just 20 days before the date of her retirement leaving behind her retired Govt. employee</i></p>	

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A.K.P.	<p><i>husband. Further neither any document in support of such misleading action has been enclosed nor has any person who misleads the applicant been made party in the instant application. Therefore, we do not find any reason to entertain the instant application being devoid of merit as well as on the ground of limitation. Accordingly, the O.A. is dismissed with no order as to costs.</i></p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER (A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER (J)</b></p>	