

**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 - 581 of 2018****Satadru Adhikary –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>7</u> 01.08.2019</p>	<p><i>For the Applicant: Mr. T. Tiwari, Ms. R. Ghatak, Advocates.</i></p> <p><i>For the Respondents: Mr. S. N. Ray, Advocate.</i></p> <p><i>The instant application has been filed praying for challenging the Memo. dated 09.08.2018, whereby the request of the applicant was rejected on the ground that the deceased employee was a work charged employee but not a regular employee. Being aggrieved with, he has filed the instant application. Though the applicant has claimed that his father was a regular employee, however in support of his contention, he could not submit any documents or appointment letter to establish that he was a regular employee. The counsel for the respondent though has not filed any reply, however, vehemently submitted that father of the applicant was a work charged employee. Therefore, the applicant is not entitled to get any compassionate appointment as per Scheme of the Labour Department as there is no provision for the work charged employee for compassionate appointment and the Scheme is applicable for regular employee only.</i></p> <p><i>We have heard both the parties and perused the records. It is noted that the respondents are categorically stated in their communication that father of the applicant</i></p>	

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	<p><i>was a Ex-Roller Cleaner, who was a work charged employee under Public Works Department (Roads). The counsel for the applicant has submitted that his mother is also getting family pension. Further another similarly circumstanced person was also appointed as compassionate ground. Therefore, his case should not be rejected on that ground.</i></p> <p><i>We have heard both the parties and perused the records. It is noted that father of the applicant was working as Roller Cleaning, which according to the respondent was a Work Charged employee. It is settled principle of law that the compassionate appointment is governed by the scheme of department and as per the respondent the scheme of the department does not stipulate to consider any dependent of the Work Charged employee. The Hon'ble Apex Court in the case of State of Manipur -Vs- Thingujam Brojen Meetei reported in 1996(5) SCC 13 has held inter alia :</i></p> <p><i>“.....In our view, the only change that is brought about as a result of confirmation of a work-charged employee is that, by virtue of the Terminal Benefits Rules, a confirmed work-charged employed is entitled to certain benefits including pension and gratuity under Rule 6 of the Terminal Benefits Rules which benefits he would otherwise have not been</i></p>	

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A.K.P.	<p><i>entitled to. But a work-charged employee after confirmation does not cease to be work-charged employee and he continues to be a work-charged employee. The bar regarding applicability of the Scheme to work-charged employee would, therefore, continue to be applicable and the dependents of such a confirmed work-charged employee cannot claim the benefit of an appointment on the basis of the Scheme....."</i></p> <p><i>Thus, as the scheme of the Labour Department does not permit to consider any dependent of the Work Charged employee but regular employee. Therefore, in our considered view, the respondents have rightly rejected the claim of applicant. It is observed that even if someone has got appointment beyond the Scheme wrongly that could not be perpetuated if it is not permitted as per Scheme of the department. Accordingly, we do not find any reason to interfere with the decision of the respondents. Therefore the O.A. is dismissed being devoid of merit.</i></p> <p><b>P. RAMESH KUMAR</b> <b>MEMBER (A)</b></p> <p><b>URMITA DATTA (SEN)</b> <b>MEMBER (J)</b></p>	