

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-587 of 2018.Dipayan Moitra 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
02 ----- 26-09-2018	<p>For the Applicant : Sk. S. H. Molla , Advocate.</p> <p>For the State Respondents : Mr. S. N. Roy, Advocate.</p> <p>Affidavit of service is filed be kept on record.</p> <p>The instant application has been filed praying for the following reliefs :-</p> <p>(A) To pass an appropriate order directing the concerned respondents to give compassionate appointment to the application in the office of the respondent authority in terms of the application dated December 17, 2009, February 26, 2015, April 3, 2015 and on May 6, 2015 in compliance with the terms of notification no. 301-EMP/9M-10/2000 dated August 21, 2002</p>	

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	<p>forth with.</p> <p>(B) To pass an appropriate order directing the concerned respondent to set aside and/or quash the said memo dated July 12, 2011 send vide memo no. 1378/176E (4) pt -VII dated July 12, 2011 issued by the respondent no. 2 forthwith.</p> <p>(C) To pass an appropriate order directing the concerned respondents to transmit and authenticate the records and documents in regards to the instant case before this Hon'ble Tribunal so that conscionable justice may be done upon hearing the parties.</p> <p>(D) Such further and other order or orders be passed and/or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.</p>	

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	<p>According to the applicant, his mother died on 23-09-2009, thereafter he applied for compassionate appointment on 23-12-2009. However, ultimately vide order dated 12-07-2011, his case was rejected on the ground that the total monthly family income is more than 90% of the salary received by the deceased employee. Thereafter he made repeated representation and ultimately he has filed the instant application.</p> <p>The Counsel for the respondent has raised the preliminary objection on the point of limitation as the rejection order was passed in the year 2011. Moreover the father of the applicant was employed who retired on 30-09-2014. Therefore the findings of the enquiry committee that the total monthly income of the family is more than 90% of the salary received by the deceased employee is correct one. Moreover the applicant has not challenged such finding by way of claiming any factual incorrectness. Therefore, he has prayed for</p>	

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	<p>dismissal of the instant application.</p> <p>Heard the parties and perused the record. It is noted that the concerned employee died on 23-09-2009 and the application for compassionate appointment made by the applicant was rejected on 12-07-2011, whereas the applicant has challenged the order in 2018 only that to without asking for any condonation of delay rather according to the applicant, it is continuous cause of action. It is a settled position of law that repeated representations cannot keep alive limitation. Further on the face of record, rejection order was passed on 12-07-2011 and the instant application has been filed in 2018. Therefore in our opinion the application is barred by limitation. Moreover the father of the applicant is a government employee till 2014, the mother of the applicant died in 2009. Therefore the findings of the respondents that the total monthly income of the family is more than 90% of the salary received by the deceased employee is also seems to be correct. It is further noted that the respondents had rejected</p>	

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	<p>the claim of the applicant on the following observations :-</p> <p>“In connection with the above referred subject and reference and read with memo no. 766/118E/pt. II dated 05-08-2010 of Superintending Engineer, North Circle, P.W. (C.B.) Etc. it reveals that as per report of that Enquiry Committee, the Service as prayed for by Dipayan Maitra, S/o Late Krishna Maitra, Ex-Work Assistant on compassionate ground cannot be recommended to the competent authority as the monthly income of the deceased family is much higher with that of 90%(ninety) of the Gross Salary of Late Maitra, Ex-Work Assistant which is adverse to the G.O. No. 114 EMP dated 14-08-2008”.</p> <p>In view of the above, we are of the opinion that the respondents have rightly rejected the claim of the applicant as the monthly income of the deceased family was 90%. The father of the applicant who was a government employee at that point of time is</p>	

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Mihir	<p>correct. Moreover the applicant has not shown any contrary evidence to establish that the claim of the respondents regarding monthly income of the family was erroneous. Therefore, we do not find any merit to entertain in the instant application.</p> <p>Accordingly, we dismissed the OA being barred by limitation as well as no merit with the above observations with no order as to cost.</p> <p style="text-align: center;">P. RAMESH KUMAR MEMBER(A)</p> <p style="text-align: center;">URMITA DATTA (SEN) MEMBER(J)</p>	