

**IN THE WEST BENGAL ADMINISTRATIVE
TRIBUNAL
BIKASH BHAVAN, SALT LAKE CITY
K O L K A T A – 7 0 0 0 9 1**

Present :-

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

-AND-

**The Hon'ble P. Ramesh Kumar,
Member (A)**

J U D G M E N T

-of-

Case No. O.A. - 697 of 2016

Prasenjit SheeApplicant

-Versus-

State of West Bengal & others....Respondents

**For the Applicant : - Mr. Goutam Pathak Banerjee,
Advocate.**

**For the State Respondent:- Mr. Sankha Ghosh,
Advocate.**

Judgment delivered on : 11th December, 2019

**The Judgment of the Tribunal was delivered by :-
The Hon'ble Smt. Urmita Datta (Sen), Member (J)**

Judgement

1. The instant application has been filed praying for setting aside the impugned order dated 17.05.2016 passed in pursuance to the solemn order dated 04.01.2016 passed in O.A. No. 1047/2015.
2. As per applicant, his father died in harness on 03.04.2005, leaving behind two minor sons including the applicant and one minor daughter and his wife. Subsequently, the mother of the applicant filed an application on 06.07.2005 praying to keep one post vacant for compassionate appointment till her elder son attain majority and to provide him compassionate appointment thereof. (Annexure 'B'). Thereafter, attaining majority, the applicant filed one application with no objection of all other legal heirs before the authority praying for compassionate appointment in the year 2013 and filed pro-forma application on 31.03.2014. Thereafter, his case was forwarded by the CMOH for compassionate appointment (Annexure 'H'). Thereafter, his case was rejected by the Director of Health Services, which was served upon him by the Chief Medical Officer of Health, Purba Medinipur vide Memo dated 20.04.2015 (Annexure 'L').
3. Being aggrieved with, the applicant had preferred one O.A. being No. 1047 of 2015, which was disposed of vide order dated 04.01.2016 by way of quashing of rejection letter with a direction to the respondents to consider the case of the applicant afresh keeping aside the point of minority. In pursuance to the said order, the respondents have again considered the case of the applicant. However, they rejected his prayer vide letter dated 17.05.2016.

4. Being aggrieved with, he has filed the instant application. As per the applicant, since his mother approached the authority on plain paper in the year 2005 and this Tribunal had directed the respondents to file their reply wherein it is stated that the prayer of the applicant was reconsidered. However, as per Departmental Notification dated 03.12.2013 as well as 01.03.2016, the case of the applicant was rejected on the ground being belated request as the applicant approached the authority after attaining of majority in 2013 only whereas his father died in 2005. As per the respondents, as the applicant's father died on 03.04.2005 and he approached the authority belatedly after attaining majority which clearly established the fact that the family was able to manage somehow all these years and was not in a sudden financial crisis, which is the necessary ingredient to consider any case of compassionate appointment.
5. We have heard both the parties and perused the records. It is settled principle of law that the compassionate appointment is not a matter of right. Compassionate appointment is to enable the family to overcome the sudden financial crisis cause due to the sudden demise of the sole bread earner. In the instant case, it is noted that the father of the applicant died in 2005 and if the family was facing financial hardship for her compassionate appointment, however, instead of that she had requested the authority to provide compassionate appointment after the applicant attain the majority. From the above, it is clear that the observation of the respondents that the family of the applicant was not in such a financial crisis as they have waited for attaining majority of applicant for compassionate appointment and further the applicant approached the authority after a long lapse of time. Therefore, the main purpose of the compassionate appointment has been frustrated.

The Hon'ble Apex Court in the case of Umesh Kumar Nagpal –Vs- State of Hariyana reported in “(1994) 4SCC 138” had observed that the whole object of the compassionate appointment is to enable the family to overcome sudden crisis.

Thus mere death of an employee in-harness does not entitled his family to such source of livelihood as the compassionate appointment is not a matter of right. The provisions of compassionate appointment have to be made necessarily by the rules or by the executive instruction issued by the Government or the public authority concerned and it should not be granted after lapse of reasonable period.

In the instant case also the family of the applicant had waited up to his attaining of majority and thereafter approached the authority for compassionate appointment. In the above scenario, if the applicant could have waited for long time which invariably indicates that he had no immediate need of financial assistance after the death of his father, Therefore, we do not find any reason to interfere with the decision of the respondents. Accordingly, the O.A. is dismissed being devoid of merit.

P. RAMESH KUMAR
MEMBER (A)

URMITA DATTA (SEN)
MEMBER (J)